

**Arizona Department of Education**

**Child Nutrition Programs**

**Food Service Management Company  
Guidance Manual for School Food  
Authorities**

**January 2001**

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## INTRODUCTION

School Food Authorities (SFA's) are responsible for operating the school nutrition programs in schools under their jurisdiction. These programs include the National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Special Milk Program for Children (SMP), and the Summer Food Service Program (SFSP). To assist in carrying out this responsibility, a SFA may contract with a Food Service Management Company (FSMC) to manage the food service operation involving these programs in one or more of its schools.

SFA's must comply with existing Federal, State and local procurement requirements when obtaining the services of a FSMC (Appendix A). The NSLP, SBP, SMP and SFSP regulations appear at 7 CFR Part 210, 220, 215, and 225, respectively. This guidance presents an overview of the Federal and State standards for SFA's contracting with a FSMC (Appendix B).

In order to make an informed decision about whether contracting with a FSMC will provide the SFA with the best food service operation available, the SFA should consider a number of issues. These issues include the financial, administrative and operational activities that will be affected by contracting. The SFA should allow sufficient time to identify and analyze these issues and to prepare for conversion from operating the food service to using a FSMC. Ideally, this process should start one full year before the FSMC begins operations (Appendix C).

In contracting with a FSMC, the SFA must use procurement procedures and documents that provide adequate safeguards for the SFA, as well as ensure that the FSMC operates the food service in accordance with the objectives of the SFA (Appendix A). The SFA should have a sufficient number of knowledgeable staff to coordinate, monitor, review and control food service operations and to perform the responsibilities that must be retained by the SFA.

The following guidance identifies items that should be considered in deciding whether to use a FSMC, the actions that should be taken once a decision to use a FSMC has been made, and the responsibilities of the SFA after the SFA-FSMC contract becomes operational. This guidance is not all-inclusive. Each SFA will have unique circumstances that should be evaluated. It is highly recommended that the SFA's legal council review the SFA-FSMC contract prior to signing the agreement.

## GLOSSARY OF TERMS

For the purposes of this guidance, the term:

**ADE** means the Child Nutrition Programs Office of the Arizona Department of Education.

**Bid** means an offer to perform, in accordance with specifications and conditions, for a stipulated price.

**Code of Federal Regulations (CFR)** means the codification of the general and permanent rules published in the *Federal Register* by the Executive departments and agencies of the Federal government.

**Commodities** means foods donated, or available for donation, by the United States Department of Agriculture.

**Competitive Negotiation** means a method of procurement whereby proposals are requested from a number of sources and the request for proposal is publicized, negotiations are conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of competitive sealed bids.

**Competitive Sealed Bids** means a method of procurement whereby sealed bids are publicly solicited and a firm fixed-price contract is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bid, is lowest in price.

**Contract** means a formal, legally enforceable agreement duly executed by the authorized representatives of the SFA and the food services contractor that calls for the provision of services, materials, supplies or equipment by the food service contractor in accordance with all conditions and specifications in the bid/proposal documents, for a price to be paid by the SFA.

**Contract Documents** means the bid specifications, requirements, the invitation for bid, the request for proposal and the contract, as applicable.

**Cost-type Contract** means a contract in which the contractor is paid on the basis of the costs it incurs. The term includes cost-plus-fixed-fee contracts and subcontracts therein. However, the term does not include any subcontracts under a fixed-price contract.

**Donated Foods** see Commodities

**Equipment** means an article of tangible personal property that has a useful life of more

than two years and an acquisition cost of \$500 or more. State law or policy may set stricter capitalization thresholds for equipment than the one set by Federal standards. Any SFA may use its own definition if its definition would at least include all items of equipment as defined here.

**FCS** means the Food and Consumer Service of the United States Department of Agriculture.

**Fixed-price** means a price is guaranteed for a specific period of time.

**Fixed-price Contract** means any contract except a cost-type contract. The term includes firm fixed-price contracts. It also includes contracts under which the contractor is paid at a fixed rate per unit of service or unit of labor time.

**Food Service Management Company (FSMC)** means a commercial enterprise or a nonprofit organization that is or may be contracted with by the SFA to manage any aspect of the school food service.

**Invitation for Bid (IFB)** means an instrument of competitive sealed bids. An IFB is used to publicly solicit sealed bids. An IFB contains specifications and pertinent attachments that clearly define the items or services needed in order for bidders to properly respond to the invitation.

**Noncompetitive Negotiation** means procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources if competition is determined inadequate.

**Nonprofit School Food Service** means all food service operations conducted by the School Food Authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food services.

**OMB Circular No. A-102, Attachment O** means the Federal standards governing procurements made by State Agencies, School Food Authorities and other local program operators under Federal open-ended entitlement programs. Such programs include the National School Lunch Program, the School Breakfast Program, the Special Milk Program for Children and the Summer Food Service Program; accordingly, these standards apply to SFA's operating these programs. (Appendix A)

**Processor** means, as defined in 7 CFR 250.3, "... any commercial facility, which processes or repackages donated foods. However, commercial enterprises which handle, prepare and/or serve products or meals containing donated foods on-site solely for the individual recipient agency under contract are exempt under this definition."

**Procurement** means the process of obtaining goods and/or services in accordance with applicable rules and regulations.

**Request for Proposal (RFP)** means an instrument of competitive negotiation. In competitive negotiations, the RFP is used to solicit proposals from a number of sources. The RFP identifies the goods or services needed, all significant evaluation factors and the importance of each factor.

**Responsible Bidder/Offeror** means a bidder/offeror who is qualified by experience, equipped to perform the work required or furnish the necessary material indicated in the specifications, and who has the necessary financial backing and ability to complete the contract.

**Responsive Bidder/Offeror** means a bidder/offeror whose bid/offer conforms with all the material terms and conditions of the IFB/RFP.

**School Food Authority (SFA)** means a sponsoring organization of the Child Nutrition Programs.

**7 CFR Part 3015** means USDA's regulations regarding the administration of grants. Subpart S sets forth the procurement provisions and Subpart T sets forth the cost principles.

**7 CFR Part 3017** means USDA's regulations regarding debarment and suspension.

**7 CFR Part 3018** means USDA's regulations regarding lobbying activities.

**Small Purchase** means relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing not more than \$30,724.20 (\$35,000 for Charter Schools only), or as otherwise specified by State law; provided that such amount is not more than \$30,724.20 (\$35,000 for Charter Schools only).

**Vendor** means a merchandiser of complete meals, meal components, or raw materials.

## **CHAPTER 1**

### **Responsibilities and Considerations**

#### **Deciding to Use a FSMC**

The following steps should be undertaken when considering the use of a FSMC:

**Analyze Food Service Operation** – conduct an analysis of the current food service operation to determine what method of providing food service best meets the SFA's goals and objectives, i.e.:

- Identify the current cost of operating the food service.
- Determine all cost elements that will be affected by contracting with a FSMC. These could include personnel costs, food costs, other labor costs and contractual obligations that must be met by the SFA regardless of whether a FSMC is used.
- Analyze all non-fiscal aspects of the current food service operation to determine the impact of utilizing a FSMC (e.g., nutrition goals and nutrition education activities).
- Identify the functions that might be contracted, and the pros and cons of contracting each.

**Contact the Child Nutrition Programs Office at the Arizona Department of Education (ADE)** – contact the ADE to obtain information on FSMC's operating within the State, the names of SFA's currently using FSMC's and technical assistance, if needed.

**Contact Other SFA's** – contact other SFA's using FSMC's for technical assistance.

#### **SFA Responsibilities**

If the SFA uses a FSMC, the SFA remains responsible for the overall operation of the school nutrition programs. This responsibility requires that the SFA retain and maintain direct involvement in the operation of the food service.

The following SFA responsibilities must **not** be delegated to a FSMC:

**Preparation of Contract Documents** – prepare all contract documents issued prior to the award of the SFA-FSMC contract. These documents include, but are not limited to, bid specifications,



the invitation for bid (IFB) or the request for proposal (RFP), and the SFA-FSMC contract, as applicable. Section 210.16(c)(3) specifically addresses the SFA's development of specifications for each food component or menu item and requires these specifications to be included in the IFBs or RFPs. Specifications must cover items such as grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time. A checklist for a FSMC IFB/RFP and/or contract is provided in Appendix D. A prototype SFA-FSMC contract is provided in Appendix E.

**Program Oversight** – ensure that the food service is in conformance with the SFA's agreement with the ADE and that responsibility for all contractual agreements entered into in connection with the school nutrition programs remains with the SFA. Resolve program reviews and audit findings.

**Monitoring** – monitor the food service operation through periodic on-site visits.

**Control the Quality, Extent and Nature of Food Service** – retain control of the quality, extent and general nature of the food service and the prices to be charged to the children for meals. Such control must include retaining control of the nonprofit school food service account and overall financial responsibility for the school nutrition programs; establishing all prices for all meals served under the nonprofit school food service account (e.g., pricing for reimbursable meals, a la carte food services and adult meals, as applicable); developing the 21-day cycle menu in accordance with the meal pattern requirements specified in 7 CFR Part 210; conveying menu adjustment requirements to the FSMC, and monitoring implementation of those adjustments. Additionally, any refunds received from processors must be paid to the SFA.

**Signature Authority** – retain signature authority on the agreement to participate in the NSLP, the SBP, the SMP and the SFSP, including the SFA's free and reduced price policy statement and the Claim for Reimbursement.

**Free and Reduced Price Meal Process** – determine eligibility for free and reduced price meals and free milk in accordance with 7 CFR Part 245. Such responsibilities include the conduct of any hearings related to such determinations and verification of applications for free and reduced price meals.

**USDA Donated Foods** – ensure that all USDA donated foods received by the SFA and made available to the FSMC accrue only to the benefit of the SFA's nonprofit school food service and are fully utilized therein. Retain title to USDA donated foods.

**Health Certification** – maintain applicable health certification(s) and assure that all State and local regulations are being met by a FSMC preparing or serving meals at a SFA facility.

**Establishment of an Advisory Board** – establish and maintain an advisory board composed of parents, teachers and students to assist in menu planning.

**Development of the 21-Day Cycle Menu** – develop the 21-day cycle menu for the FSMC bid proposal. If the SFA is unable to develop a 21-day cycle menu, sample menus are available in Appendix F and G for breakfast and lunch, respectfully.

FSMC developed cycle menus are appropriate to use only under the competitive negotiation method of procurement. Under the competitive sealed bid method, the SFA must review each bid for responsiveness to the bid requirements as well as determine the lowest bid price. In the absence of a uniform menu, the SFA will not have consistent information among offerors upon which to determine responsiveness and lowest bid price, and may expose itself to bid protests unnecessarily. The SFA must approve any changes to the cycle menu after the first 21 days of meal service.

**Internal Controls** – apply the internal control procedures required by 7 CFR 210.8(a) to the preparation of the monthly Claim for Reimbursement.

## **FSMC Responsibilities**

**Health Certification** – maintain all applicable State and/or local health certification(s) for the duration of the contract for any facility outside the school in which it proposes to prepare meals. The FSMC must meet all applicable State and local health regulations in preparing and serving meals at the SFA facility.

**21-Day Cycle Menu** – adhere to the 21-day cycle menu which was included in the IFB or RFP for the first 21 days of meal service. Changes thereafter may only be made with the approval of the SFA.

**Provision of Free and Reduced Price Meals** – in order to offer a la carte food service, the FSMC must also offer free, reduced price and full price reimbursable meals to all eligible children.

**USDA Donated Foods** – to the maximum extent possible, utilize USDA donated foods made available by the SFA solely for the purpose of providing benefits for the SFA's food service operation.

**Recordkeeping** – maintain records to support the SFA's Claim for Reimbursement; make all records available to the SFA upon request; and retain all records for a period of five (5) years after the SFA submits the final Claim for Reimbursement for the fiscal year for inspection and audit by representatives of the SFA, ADE, USDA and Comptroller General, at any reasonable time and place. In instances where audit findings have not been resolved, the records must be retained beyond the 5-year period until resolution of the issues raised by the audit.

**Reporting** – report the claim information to the SFA promptly at the end of each month or more frequently as specified by the SFA.

## **Identify Scope of Contract**

Once the decision to hire a FSMC has been made:

**Identify Scope of Work** – determine the general extent or scope of work to be performed by the FSMC, i.e.:

- Identify which Federally reimbursable program(s) or nonprofit food service activities the FSMC will be involved in, e.g., NSLP, SBP, a la carte sales during and/or between meal service periods, after hours snacks under the NSLP or meal/snack service under the Child and Adult Care Food Program/Summer Food Service Program.
- Decide if the operation of any SFA vending machines will be turned over to the FSMC.
- Decide if the FSMC will cater any special activities and/or be involved in any food service activity outside the nonprofit food service.
- Decide if the FSMC will be allowed to subcontract any of the work under the contract. It is strongly recommended that subcontracting not be allowed since it complicates contract monitoring and effectively reduces the SFA's

control over the contract. Note: In accordance with 7 CFR Part 250, an FSMC is not permitted to subcontract USDA donated foods for further processing.

**Identify Responsible Personnel** – identify SFA personnel responsible for managing the SFA-FSMC contract and meeting the SFA's responsibilities, including the existing responsibilities that cannot be delegated to the FSMC and the new responsibilities that will occur under the SFA-FSMC contract.

**Select Method of Procurement** – decide which method of procurement to use in accordance with SFA's needs.

**Develop Contract Documents** – for competitive sealed bid procurement, the contract document is the IFB which includes specifications and pertinent attachments which clearly define the items and services. The contract should be issued as part of the IFB. Under competitive negotiation, all non-negotiable components of the contract should also be included in the RFP. In either type of procurement, the contract or contract provisions should be reviewed by the SFA's legal counsel to ensure legal sufficiency as well as to provide the maximum amount of protection possible to the SFA.

SFA's are encouraged to provide specific information about the food service. For example, essential information includes the number of school buildings, meal prices, number of students available for lunch, meal preparation facilities, number of serving days, historical information on quantities/types of USDA donated foods available, Federal reimbursement rates, meal service hours, food service and serving methods, number of meal service periods, commodity usage, estimated serving counts, personnel salaries and benefits, total revenues, total operating costs, etc.

FSMC-developed contracts are not allowed under competitive sealed bid procurement since they would compromise open and free competition. While not recommended, a SFA may invite the successful offeror under a RFP to assist in finalizing the contract provisions after the successful offeror has been identified.

SFA's must submit the IFB/RFP to the ADE for approval prior to the bidding process. ADE will ascertain that all required terminology is included in the IFB/RFP. After the ADE approval, the SFA may enter into the bidding process. 7 CFR Part 210.19(a)(6) requires the ADE to annually review each contract. Therefore, all contract documents must be submitted to and reviewed by the ADE prior to

the finalization of the contract. **Reimbursement will not be paid to the SFA until all contract documents have first been approved by ADE.** A prototype SFA-FSMC contract is provided in Appendix E.

## **CHAPTER 2**

### **Procurement Methods**

Before entering into a procurement action, the SFA must identify which procurement method meets its needs most effectively. The two most frequently used methods of procurement for contracting with a FSMC are:

**Competitive Sealed Bids**-competitive sealed bids uses an IFB.

**Competitive Negotiation**-competitive negotiation uses a RFP.

#### **Open and Free Competition**

The underlying foundation of all procurement, without regard to dollar value, is that regardless of the method used, the procurement must be conducted in a manner that provides maximum open and free competition. Procurement procedures must not restrict or eliminate competition. Examples of such restrictions include, but are not limited to:

**Unreasonable Requirements** – placing unreasonable requirements on firms in order for them to qualify to do business, e.g., requiring unnecessary experience and bonding requirements.

**Noncompetitive Practices** – encouraging or fostering noncompetitive practices, e.g., collusion between firms.

**Conflicts of Interest** – allowing conflicts of interest to occur. Conflicts of interest can occur when the individual(s) responsible for determining bid/proposal responsiveness can be overruled by other individuals within the organization or if the individual responsible for determining responsiveness (or any member of his or her family) has any personal or corporate ties or any financial interest in any of the offering firms.

**Inappropriate Practices** – using information prepared by FSMC's in the IFB or RFP; entering into negotiations with a firm prior to evaluating proposals; negotiating with any bidder at any time when the competitive sealed bid procurement method is used; and providing only certain firms with the results of pre-bid meetings or releasing the contents of a bid proposal to other bidders/proposal offerors.

**Insufficient Time** – not allowing bidders/offerors sufficient submission time when advertising/soliciting the IFB/RFP.

**Geographic Preferences** – awarding geographic/local preferences in contractor selection to an extent that restricts competition.

## **Competitive Sealed Bids**

Competitive sealed bids is the best method to use when the SFA wishes to have a fixed-price (lump sum or unit price) contract.

Factors to consider for using competitive sealed bids are:

**Fixed Scope of Services** – the SFA has identified exactly, which services and costs it wishes to contract out to the FSMC.

**No Negotiation Involved** – the SFA either does not wish or lacks the needed experience to negotiate price and contractual responsibilities with the FSMC.

**Legal Advice Needed** – the SFA should obtain legal advice in the development of a contract for inclusion in the IFB.

**Competition Available** – more than one FSMC is willing and able to compete effectively for the contract.

**Responsible/Responsive Bidder** – the bid will be awarded to the responsible firm that submits the lowest responsive bid.

The SFA must include sufficient information in the IFB to allow bidders to properly respond to the IFB, thus enabling the SFA to determine **responsiveness**. The SFA must use responsiveness criteria that are measurable. Normally this means establishing minimum levels. The IFB must also indicate how bidders will demonstrate compliance with these criteria. For example, if an IFB requires a copy of the food handler's license, the bidder should provide it as requested. Open-ended criteria cannot be used in IFBs.

In determining whether a responsive bidder is also a **responsible** firm, factors such as contractor integrity and prior working relationships with the firm can be used as well as contractor experience and financial and technical resources.

**Needed Information** – the place and time the bids will be opened and the award made must be included in the invitation as well as any information concerning pre-bid meetings and the need for board approval of the selected bidder. If bid and/or performance bonds will be required, the amount, any requirements concerning the bonding firm, and when the bond(s) must be provided to the

SFA must be included in the invitation.

### **Advantages**

The advantages of using competitive sealed bids include:

**Advance Preparation** – the contract is prepared prior to soliciting bids. This generally allows the SFA to more accurately estimate costs and assign staff resources well in advance of the effective date of the contract.

The pre-bid preparation of the contract also permits the SFA to arrange for its legal authorities to review the contract provisions for legal sufficiency without the pressures of negotiation.

**Easier Identification of Revenues and Expenses** – fixed-price contracts more easily permit the SFA to identify anticipated revenues and expenses, as well as the total anticipated cost of the contract.

**No Negotiation Responsibilities** – the SFA is relieved from negotiating both the cost and responsibilities with bidders.

**Simplified Monitoring** – the monitoring of the status of the nonprofit food service account is not difficult. Transactions are restricted to processing billings from and payments to the FSMC; the FSMC does not pass costs on to the SFA's.

### **Disadvantages**

The disadvantages of using competitive sealed bids are:

**Demands Precise Identification of Needs** – if the bid document does not clearly identify the services requested, the bid prices and the services provided by the FSMC may not be reasonable or responsive to the SFA's needs.

**May Limit Competition** – during periods of rapidly rising prices, prospective bidders may decline to bid on a fixed-price basis or bid overly high. In situations where prices are declining, fixed-price contracts do not allow the SFA to benefit from the decline.

## **Competitive Negotiation**

Competitive negotiation is effective when the SFA has identified what it expects a FSMC to accomplish, but has not identified how it will be accomplished.



Competitive negotiation is effective only when the SFA will actually negotiate with prospective offerors. The resulting contract may be fixed-price or cost-based reimbursement. Unlike the cost-plus-fixed-fee method, **“cost-plus-a-percentage-of-cost” or “cost-plus-a-percentage-of-income” contracting is not permitted.**

If cost-reimbursable contracts are used, the RFP should require that the offerors provide a maximum cost, i.e., a cap. Whatever type of contract cost system is used, the SFA must have sufficient information upon which to project the total anticipated cost of the contract. (Designation of Program Expenses, Appendix J)

Factors to consider when using competitive negotiation are:

**Technical Skills Needed** – the SFA must possess the technical skills necessary to evaluate the proposals and negotiate with the offerors. These skills usually include knowledge of procurement and contracting, school food service, and financial management.

**Legal Advice Needed** – while the SFA must prepare a descriptive RFP, the actual contract will not be prepared until after the proposals are evaluated. As a result, the SFA’s legal authority should be available to assure that the proposed contractual language reflects the agreement reached between the successful offeror and the SFA.

**Monitoring Costs Required** – under a cost-reimbursable contract, the SFA must independently monitor the costs incurred under the contract for compliance with 7 CFR Part 3015, Subpart T, program regulations and instructions.

**Careful Preparation of Evaluation Criteria** – the criteria that will be used to evaluate the proposals, and their weights, must be carefully prepared and included in the RFP. These criteria must be followed in evaluating the proposals. Negotiations will then be conducted with those offerors who exceed a pre-determined “cut-off” score.

**Requires Inclusion of All Pertinent Information** – the due date for proposal submission must be included in the request as well as any information concerning pre-proposal meetings and the need for board approval of the selected offeror. If a performance bond will be required, the amount, any requirements concerning the bonding firm, and when the bond must be provided to the SFA must be included in the proposal.

## **Advantages**

The advantages of using competitive negotiation are:

**Flexibility in Assigning Responsibilities** – based upon the responses received from the offerors, the SFA decides which functions will be performed by the FSMC. SFA's must ensure that the SFA responsibilities specified in Chapter 1 are not delegated to the FSMC.

**SFA's Benefit During Periods of Falling Prices** – RFPs that result in cost-reimbursable contracts allow the SFA to take advantage of price declines during periods of falling prices.

**Greater Flexibility in Selecting FSMC** – the SFA has somewhat more flexibility in selecting a FSMC because the SFA is not limited to selecting the offeror that submits the lowest price bid.

## **Disadvantages**

The disadvantages of using competitive negotiation are:

**Complex Monitoring** – the monitoring of revenue and expenses under the contract will be more complex because:

- The Federal cost principles referenced in 7 CFR Part 3015, Subpart T, apply to cost-type contracts. This means the SFA must review specific items of cost the FSMC charges to the food service account for conformity to these cost principles. The FSMC cannot pass unallowable costs on to the SFA.
- The timing of expenses will affect the status of the food service account. If the FSMC records expenses on the cash basis of accounting and bills the SFA accordingly, it will bill for goods and services at the time they are purchased. Under the accrual basis of accounting, the FSMC would record expenses and bill the SFA when the goods are actually used in the food service operation.

The accrual basis of accounting is the preferred method because it measures the benefits received from the FSMC's purchases. Cash basis billing can distort this measurement. It can generate overstated expenses and an understated account balance at the time of purchase, and the reverse situation at other times. The SFA can correct such distortions only by making adjustment

entries. If the FSMC does not use the purchased goods at the same rate from month to month, the SFA must recalculate the adjustment entry each month.

**Unbudgeted Costs During Periods of Rising Prices** – RFPs that result in cost-reimbursable contracts may result in additional costs to the SFA during periods of rising prices.

**Potential Reopening of Negotiations** – under a RFP, the contract is prepared based upon the negotiations. The contract should not be finalized until the ADE reviews and approves the document. If deficiencies are noted, it may be necessary for the SFA to reopen negotiations.

**Essential Skill and Experience** – the negotiation process requires that the SFA possess significant skill and experience in negotiating, contracting and financial management. It may be necessary for the SFA to hire individuals to provide the needed expertise, which can be cost prohibitive. Attempting to negotiate without the needed expertise can result in the SFA entering into a contract that meets regulatory requirements and is fully enforceable, but is detrimental to the SFA.

**Unexpected Responsibilities** – to the extent that the SFA has not identified whether it or the FSMC will perform certain functions, the SFA may incur duties and related costs not planned or budgeted.

## **CHAPTER 3**

### **Advertising**

#### **Solicit Bids**

The SFA must solicit bids/proposals in accordance with State/local procurement procedures. To comply with Federal standards, State/local procedures must provide a sufficient amount of time, prior to the date for opening of bids/proposals, to allow for the preparation and submission of bids/proposals.

If, after solicitation of a number of sources, competition is determined inadequate, a contract may be awarded by noncompetitive negotiation. Since noncompetitive negotiation is limited to specific situations, it should not be used unless expressly approved by the ADE. In such instances, the SFA must maintain documentation of its efforts to solicit bids.

#### **Time Allowed**

Unless otherwise specified by State or local procurement standards, it is suggested that at least 45 days for IFBs and 60 days for RFPs be allowed from the time bids/proposals are solicited to the time that they are due. (It should be noted here that substantially more time overall must be allotted for a procurement under a RFP to allow for such things as proposal evaluation, negotiation with offerors, contract development, etc.) Provided that the IFB/RFP has been properly prepared, an adequate amount of solicitation time works to the advantage of both the SFA and the offeror and contributes to an effective and efficient procurement process. (Schedule of Events, Appendix C)

#### **Advertising Methods**

Under either the IFB or RFP procurement method, bids/proposals must be solicited directly from an adequate number of qualified FSMC's and the IFB/RFP must be publicized in order to provide for maximum open and free competition. To accomplish this, copies of the complete IFB/RFP should be mailed to prospective offerors, i.e., those FSMC's that are believed to be qualified and that might reasonably be expected to respond to the solicitation. This may include FSMC's that are currently doing business with other SFA's in the State, in adjoining States, or elsewhere. Any amendments or changes to the IFB/RFP as well as any questions and answers resulting from written offeror inquiries or from a pre-bid/pre-proposal meeting must be submitted to all prospective offerors. No information regarding the IFB/RFP should be considered official or binding on the SFA until and unless it is provided in writing.

Publicizing of the IFB/RFP should be accomplished in accordance with State/local procurement procedures. Generally this would be done by advertising in major newspapers/trade journals that are normally used by the SFA for publicizing other procurements. It is not necessary that the entire IFB/RFP be published. At a minimum, however, the advertisement should include the IFB/RFP number and date, a brief description of what is being proposed for procurement, and instructions for obtaining a copy of the IFB/RFP.

### **Pre-bid/ Pre-proposal Meeting**

A SFA may be required to conduct a pre-bid/pre-proposal meeting under State/local procurement procedures or may simply wish to do so, particularly if this is the first procurement of FSMC services by the SFA. It is recommended that such a meeting be conducted and that it be held approximately two weeks after the IFB/RFP is issued but prior to the date bids/offers are due. There are two important reasons for holding a pre-bid/pre-proposal meeting:

**Provide Information** – to provide information concerning contract performance requirements that may be helpful in the preparation of bids/proposals.

**Answer Questions** – to answer any questions prospective offerors may have regarding the solicitation.

Furthermore, the meeting may bring to light ambiguities, errors, or omissions in the IFB/RFP that may later be corrected through written amendments to the IFB/RFP. (The meeting should not be held, however, as a substitute for formally amending a deficient or ambiguous specification or to disseminate performance requirements in addition to those contained in the solicitation.)

The following are some items to consider in planning and conducting a pre-bid/pre-proposal meeting:

**Information Regarding Meeting** – information regarding the meeting should be a part of the IFB/RFP solicitation package. It need not be publicly advertised but it must be provided to each FSMC that has received a copy of the IFB/RFP either directly or upon request. The information should include a request that questions be submitted several days prior to the meeting to enable the SFA to do research and prepare to respond at the meeting.

**Recommended Attendance of Offerors** – attendance at the meeting by prospective offerors is strongly recommended but generally should not be required for submittal of a bid/proposal.

**Information Provided in Writing** – information provided by the SFA at the meeting should not be considered official until provided in writing to all FSMC's that have received the IFB/RFP. Following the meeting, the SFA should prepare a set of questions and answers that were covered at the meeting and should mail this information simultaneously to all prospective offerors.

## **CHAPTER 4**

### **Bid/Proposal Openings and Evaluations**

It is imperative that bid/proposal openings and evaluations are conducted fairly. Inconsistent actions by the individuals responsible for this component of the FSMC procurement can result in bid protests or legal action.

#### **Bid Openings and Evaluations**

Opening sealed bids under an IFB must be conducted in public, at the time and place stated in the invitation.

Any bids received after the listed deadline will not be considered. Since the bids must be sealed to be valid, unsealed bids must be rejected.

If the IFB required a separate presentation of a bid bond, cover sheet or attachment for the bidders to use to demonstrate compliance with the IFB responsiveness criteria, these documents may be pre-screened. If the documents are not pre-screened, they should be checked once the bids are opened to ensure the bidders have met the responsiveness criteria. All bids that fail to meet the responsiveness criteria must be rejected.

Once the bids are opened the name of each bidder and bid price must be recorded. The contract must be awarded to the responsible FSMC whose bid, conforming to all the material terms and conditions, is the lowest price unless there are sound documented business reasons to reject a bid in the best interest of the program.

Since SFA's must often receive approval of all contracts by their school board, the SFA may refrain from making a formal award until they receive board approval. The successful bidder should be notified of the SFA's intent to recommend acceptance of the bid, but the bidder must be clearly informed of the need for board approval. Once board approval is obtained, a written notice of the award should be made to the successful bidder. Usually, this written notice accompanies a copy of the signed contract. The SFA should contact their legal counsel to identify their responsibilities regarding notification of unsuccessful bidders. At a minimum, unsuccessful bidders should be notified promptly. A copy of the signed contract must also be sent to the ADE.

## **Proposal Evaluation Plan**

Proposals should be thoroughly reviewed and subjected to an impartial evaluation. An evaluation plan should be prepared prior to the receipt of any proposals. Among the items that would be included in that plan are:

**Information on Evaluation Team** – the size of the evaluation team, the expertise needed on the evaluation team and the names of the team members.

**Scoring System** – the scoring system that will be used to evaluate the proposals. This would include the standards to be applied, the relative ranking of each standard, and how the score will be calculated, i.e., the sum of the individual team scores or an average of the total team score.

**Ancillary Materials** – development of scoring sheets, composite scoring forms, and any other forms or letters that may be needed. The scoring sheets should contain the evaluation criteria, standards to be applied, scoring columns and room for comments.

The individuals who will be evaluating the proposals should have sufficient knowledge of the goals of the SFA, experience in school food service or congregate feeding, financial management experience (of food service, if possible), and experience in evaluating proposals.

## **Proposal Opening and Evaluation**

Proposals should not be opened or reviewed until after the due date established in the RFP. The person responsible for receiving the proposals must safeguard them in order to prevent unauthorized disclosures.

On the date established for opening and evaluating the proposals, each member of the evaluation team should score each proposal independently. If the RFP allows alternative proposals, care must be taken to ensure the offeror's alternatives address the basic guidelines established in the RFP. Proposals should not be compared to one another. Proposals that fail to address all requirements are unresponsive and cannot receive further consideration. Therefore, the team members should be instructed to use a pass-or-fail basis for eliminating unresponsive proposals, and then use the pre-established scoring system for evaluating the responsive proposals.

If oral presentations are a component of the RFP, great care must be taken to ensure the presentation is scored only for its content.



Presentations must be ranked against measurable standards. The team members should be instructed to evaluate the substance of the presentation. Offerors must not be allowed to alter or amend their proposals through the presentation process.

Proposals must be evaluated using the weighted criteria stated in the RFP. Negotiations are conducted with offerors whose proposals receive evaluation scores that exceed a numerical value (i.e., cut-off score) established in advance by the evaluation panel. This “cut-off” score is determined prior to opening any of the proposals. After the evaluations have been completed and all proposals are ranked, those proposals that meet or exceed the pre-established cut-off score are forwarded to the individual or team responsible for negotiating with the offerors. As with IFB bid openings, the name of each offeror and the evaluation score must be recorded. Offerors not selected for further negotiation should be notified in writing.

Contract negotiations must be conducted in a fair and equitable manner. As with all aspects of procurement, the negotiators must be well prepared. The individual(s) evaluating the proposals should not be the same individuals who conduct negotiations with offerors whose proposals receive scores above the prescribed cut-off. The negotiators should inform all offerors of the terms and conditions of the negotiation, including which elements will not be negotiable and which elements can be negotiated. If at all possible, the negotiators should be experienced in school food service operations, school finance and contract negotiations.

It is expected that the negotiation process will result in the selection of the successful offeror. However, if after negotiations, two or more offerors are still under consideration, the SFA must make a final selection using an unbiased method, e.g., the bidders are asked to submit a best and final price. The offerors should be informed of the situation and the method the SFA would use to select the successful offeror. The award should be made to the responsible offeror whose proposal is most advantageous to the SFA, price and other factors considered.

The SFA should provide written notification to the successful offeror, which clearly states that while the offeror has been successful, the proposed contract is subject to review and approval by the ADE. This notice should also inform the successful offeror that if nonsubstantive changes are needed as a result of the ADE review, an opportunity will be provided to amend the proposal.

If board approval of the contract is required, this requirement should also be included in the letter to the successful offeror. Unsuccessful offerors should be notified promptly.

## **Analysis of Price**

The contract documents should clearly indicate factors to be considered in determining the price. Whether an IFB or RFP, the following factors must be considered:

**Prompt Payment Discounts** – prompt payment discounts may only be included in the price determination when prior experience of the SFA indicates that such discounts are generally taken.

**Volume Discounts** – volume discounts can only be considered if there is a reasonable expectation that the SFA will be able to use the discounts.

**Financial Incentives** – financial incentives that do not accrue to the nonprofit school food service account cannot be used to determine the price submitted.

**Other Benefits** – goods, services, or other benefits that do not accrue to the nonprofit school food service account cannot be used to determine the price submitted.

**Total Cost** – the total cost of the bid/proposal for the breakfast, lunch, a la carte meal service and any other child nutrition program meal service such as the Summer Food Service Program or the Child and Adult Care Food Program that is operated by the SFA and included in the bid/proposal request, must be used in determining the lowest offeror.

**21-Day Cycle Menu** – under a RFP, when the SFA has obtained approval from the ADE to allow the FSMC to submit the 21-day cycle menu, the SFA must carefully review the menu and its components to determine if it complies with the meal pattern requirements specified in 7 CFR Part 210, proposal requirements, student preferences and the goals of the SFA's food service. The SFA must ensure that its evaluation and determination of proposal costs is based upon comparative menus. This may entail requiring offerors to provide sufficient information to ensure that the FSMC-prepared cycle menus use foods of equivalent specifications. Since negotiation with bidders is not permissible under an IFB, FSMC-submitted cycle menus are not appropriate for competitive sealed bid procurement.

## **CHAPTER 5**

### **Characteristics of a Comprehensive Agreement**

**Authority**                      Section 210.16(c) states “Contractual agreements with food service management companies shall include provisions which ensure that the requirements of this section are met.” These provisions are expanded upon below to incorporate program policies, pertinent regulatory requirements and guidance. Some of the required provisions are based upon the dollar threshold of the contract. In such cases, the total dollar value of the contract must be considered, e.g., in the case of a cost-reimbursable contract, the total value of the contract must reflect the management fee as well as the direct costs incurred by the FSMC which are billed to the SFA, such as food and labor.

**Required vs. Suggested**              Every effort has been made to distinguish between required and suggested contract provisions. Provisions typed in shaded boxes are Federal/State requirements that must appear in the contract documents. Regardless of whether a provision is required to actually appear in the contract documents, SFA’s are required to ensure that the food service is operated in accordance with program regulations.

SFA’s are urged to include additional provisions that supplement those regulatory provisions that must appear in the contract to ensure that the best interest of the SFA is served, provided that such provisions are not inconsistent with program regulations. Such provisions may include, competitive purchasing to obtain the best price and quality of food, extending the required controls of USDA donated foods to purchased food as well, and requiring FSMC’s to comply with the intent of Federal procurement and cost principles.

**General Provisions**              A comprehensive contractual agreement covers a wide range of areas that delineate both the SFA and FSMC responsibilities. A SFA-FSMC Contract Document Checklist is provided in Appendix D. Such responsibilities include, but are not limited to:

#### **Compliance with State and Federal Regulations**

The Code of Federal Regulations (CFR) provides rules that SFA’s must observe if they are to participate in the NSLP, the SBP, the SMP, and other meal programs. All contracts should require that the FSMC conduct program operations in accordance with 7 CFR

Parts 210, 215, 220, 225, 245, 250 and FCS instructions and policies, as applicable. Incorporation of program regulations provides a common basis for performance by the FSMC.

Contracts must contain language that confirms the SFA's responsibility to ensure that the food service operation is in conformance with the SFA's agreement under the program. (7 CRF §210.16(a)(2))

The most effective approach would be to require the FSMC to be in conformance with the applicable portions of the SFA's agreement under the program.

Contracts should also contain reference to applicable State regulations, e.g., procurement, health and sanitation requirements.

SFA's may want to consider including an addendum to the SFA-FSMC contract, which summarizes Federal and State requirements.

### **Signature Authority**

Contracts must include a provision that reaffirms that the SFA retains signature authority for: the agreement with the ADE to participate in the NSLP, SBP, SMP, and SFSP including the SFA's free and reduced price policy statement; and the monthly Claim for Reimbursement. (7 CRF §210. 16(a)(5))

The contract should ensure that the SFA retains responsibility for all contractual agreements on behalf of the school nutrition programs.

### **Free and Reduced Price Meal Process**

SFA's are not permitted to delegate responsibility for free and reduced price eligibility determinations. Therefore, contracts should not include provisions that diminish the SFA's responsibility for:

- Determinations of eligibility for free and reduced price meals and free milk.
- Verification of free and reduced price applications.
- Direction of hearings related to such determinations.

## USDA Donated Foods

All contracts must contain provisions that reaffirm the SFA's responsibility to ensure that all USDA donated foods received by the SFA and made available to the FSMC, including processed donated foods, accrue only to the benefit of the SFA's nonprofit school food service and are fully utilized therein. This provision also applies to any refunds received from processors. Further, all contracts must state clearly that the SFA retains title to USDA donated foods. (7 CFR §210.16(a)(6))

Additionally, contract language must not permit FSMC's to enter into subcontracts for further processing of USDA donated foods on behalf of the SFA. Contract language should include a provision that prohibits the use of USDA donated foods for special functions conducted outside of the nonprofit school food service.

Contract provisions that relate both to the receipt and use of USDA donated foods by the FSMC are critical in managing USDA donated foods provided to a FSMC. Therefore, SFA-FSMC contracts should address ordering procedures, proper utilization, storage practices, and inventory control.

Additionally, contracts should specify the method and frequency by which the SFA will be given the full value of USDA donated foods, including processed items. The method would differ depending on the type of contract.

In fixed-price contracts, in order to establish and document the commodity value-pass-through, the contract should specify that the credits or reductions will be indicated on the invoices to the SFA.

For cost-reimbursable contracts, the value of USDA donated foods used should be itemized in the regular monthly billings to the SFA to document savings resulting from commodity usage. In either case, it should be specified that values are to be based on the values at the point the SFA receives the USDA donated foods from the State Distributing agency, and on the USDA commodity file prices pertinent to the time period. The appropriate commodity file is available from the State Distributing agency.

The contract should specify that the FSMC accepts liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA donated foods, since the SFA is ultimately responsible for any loss of USDA donated foods due to negligence. The contract should require the FSMC to maintain accurate and

complete records with respect to the receipt, use/disposition, storage and inventory of USDA donated foods.

Failure by the FSMC to maintain records required under the contract must be considered prima facie evidence of improper distribution or loss of USDA donated foods. Under 7 CFR 250.12(b)(3), SFA's have and preserve the right to assert claims against other persons to whom USDA donated foods are delivered for care, handling or distribution. Under 7 CFR 250.12(b)(4), SFA's are required to take action to obtain restitution in connection with claims for improper distribution, use or loss of, or damage to USDA donated foods.

### **Health Certification**

Contract language must include a provision that confirms the SFA's responsibility to maintain all applicable health certifications and to assure that all State and local regulations are being met by a FSMC preparing or serving meals at a SFA facility. Contract language must also require the FSMC to have State or local health certification for any facility outside the school in which it proposes to prepare meals for the duration of the contract. (7 CFR §210.16 (a)(7) and (c)(2))

### **Monitoring**

Contract language must confirm the SFA's responsibility for monitoring the food service operation through periodic on-site visits to ensure the food service is in conformance with program regulations. (7 CFR §210.16(a)(3))

This should encompass determining whether the food service operation is in conformance with the SFA's agreement to operate the program in accordance with program regulations. Contract language should also confirm the SFA's responsibility to implement internal controls as required under 7 CFR 210.8(a) and to ensure resolution of program review and audit findings.

The contract must state that records must be made available to Comptroller General, USDA, the ADE, and the SFA, upon request for the purpose of making audit, examination, excerpts and transcriptions (Appendix A, OMB Circular No. A-102 Attachment O, paragraph 14.h)

## **Use of Advisory Board**

Contract language must reaffirm that it is the SFA's responsibility to establish and maintain an advisory board made up of parents, teachers, and students to assist in menu planning. (7 CRF §210.16(a)(8))

If the SFA wishes to have the FSMC work within the advisory board, contract language should identify the specific FSMC responsibilities.

## **Meal Service Provisions**

Contracts should also cover the range of services expected from the FSMC. These services include the types of meals provided by the FSMC and the division of responsibility for the various activities that make up meal services such as food purchasing and storage, preparation, service, management of the SFA's free and reduced price meal tickets, and other related activities.

### **Descriptive Information Regarding Food Service**

SFA's are encouraged to provide specific information about the food service. Refer to Chapter 1, Identify Scope of Contract, for examples.

Such information may be provided in a fact sheet that accompanies the IFB/RFP or in either the IFB or RFP. It would not be necessary to restate in the contract any information that appears in the IFB or RFP, provided that the IFB or RFP is expressly incorporated into the contract.

### **Types of Meals to be Provided**

Contracts should clearly specify what types of meals and other services will be provided (i.e., lunch, breakfast, a la carte and vending machine sales, adult meals and special event meals), the reimbursement category of those meals, and what programs will be offered. Unless the SFA intends to seek separate bids, the bids should cover all other meal programs administered by the SFA, e.g., the Child and Adult Care Food Program, the Summer Food Service Program and vended meals provided to other SFA's.

Contract language must specify that in order to offer a la carte food service, the FSMC must offer free, reduced price and full price reimbursable meals to all eligible children. (7 CRF §210.16(a))

## **21-Day Cycle Menu**

SFA's must include a 21-day cycle menu developed in accordance with meal pattern requirements specified in 7 CFR Part 210, in the IFB or the RFP. (7 CRF §210.16(b)(1))

Under the competitive sealed bid method, the 21-day cycle menu enables the SFA to review each bid for responsiveness to the bid requirements.

The SFA should develop the 21-day cycle menu for the bid/proposal. If the SFA is unable to develop a 21-day cycle menu, sample menus are available in Appendix F and G for breakfast and lunch, respectfully.

If the SFA has no capability to prepare a cycle menu, it may, with ADE approval, request that a 21-day cycle menu be developed and submitted by each FSMC. However, FSMC-developed cycle menus are appropriate to use only under the competitive negotiation method of procurement since, in the absence of a uniform menu, the SFA will not have consistent information among bidders upon which to determine responsiveness, and lowest bid price and may expose itself to bid protests unnecessarily.

Contract language must also stipulate that the FSMC is required to adhere to the cycle menu for the first 21 days of meal service, with changes thereafter made only with the approval of the SFA. (7 CRF §210.16(b)(1))

The SFA may want to stipulate that any changes to the cycle menu made after the first 21 days include foods of cost and quality equivalent to those in the cycle menu.

## **Quality, Extent and General Nature of Food Service**

Contract language must assert the SFA's responsibility to retain control of the quality, extent, and general nature of its food service. (7 CRF §210.14(a)(6))

- **Specifications**

In addition, the IFB/RFP must ensure that SFA's provide detailed specifications for each food component (meat or meat alternate, milk, bread or bread alternate and vegetable/fruit) or menu item specified in 7 CFR Part 210. Specifications must cover items such as grade, style, condition, weight, ingredients,



formulations and delivery time and, in some cases, purchase units, e.g., ½ pints of milk. (7 CRF §210. 16(c)(3)) (See Appendix F and G – specifications are included with sample menus for breakfast and lunch, respectfully.)

Sample product descriptions and product specifications are provided in Appendix I in accordance with the sample breakfast and lunch menus provided in Appendix F and G, respectfully. These product descriptions and product specifications can be used when compiling the IFB/RFP. Please note that descriptions are more generalized, whereas specifications contain more specific detail. In some cases there is more than one example to demonstrate different ways that a product description or specification can be written. Pack size can be changed to accommodate what best suits your district, or for approved brands, if desired. For more information about writing descriptions and specifications refer to these USDA manuals: *First Choice: A Purchasing Systems Manual for School Food Service* and *Choice Plus: A Reference Guide for Foods and Ingredients*.

Contract language should also include other standards, such as: applicability of USDA major ingredient specifications, use of the Child Nutrition Labeling Program, and applicability of USDA standards about the use of texturized vegetable protein fillers and extenders.

SFA's must not use information prepared by FSMC's in the IFB or RFP. For example, open and free competition can not be compromised by providing product specifications on "brand name" products that only one FSMC or its distributor can supply.

- Samples

SFA's may want to consider including a contract provision that mandates that the FSMC holds meal samples for a 48-hour period to ensure that the procedures specified in FCS Instruction 782-2, Food Poisoning Outbreaks, are met.

- Food Testing

Contracts should also address food testing by the SFA, such as testing portion sizes and food temperature.

- **Competitive Foods**

In accordance with 7 CFR 210.11, SFA's must exert control over the sale of foods sold in competition with school lunch and school breakfast. Included are snacks and beverages sold as part of a la carte meal offering or through vending machines. SFA's may want to address the SFA's position regarding the kinds of foods to be offered, the location of vending machines, the hours of students' access to a la carte and/or vending machines, etc.

SFA's are encouraged to include language which prohibits the sale of foods of minimal nutritional value in the food service area and which fosters the nutritional integrity of the school nutrition programs.

- **No Payment**

SFA's must include a provision to the effect that no payment is to be made for meals that are spoiled or unwholesome at time of delivery; do not meet detailed specifications as developed by the SFA for each food component or menu item specified in the meal pattern requirements of 7 CFR Part 210; or do not otherwise meet the requirements of the contract. (7 CFR §210.16(c)(3))

### **Activities Supporting Meal Services**

Contracts for food services should also contain language about activities that support food services, e.g., food purchasing (for cost-type contracts), menu planning, inventory and storage, and nutrition education, if desired.

- **General**

Contracts are strengthened by designating the specific range of services for which the FSMC is responsible. These services may include, serving of meals, processing of meal tickets, meal service at special functions, lunch ticket sales, and food delivery to serving sites.

- **Financial**

Cost-reimbursable contracts for food services should also contain language about payment of vendor bills and accounts. A common approach is for the FSMC to assume responsibility

for paying these bills and then invoicing the SFA for the costs. This is consistent with a “cost-reimbursable with a fixed-fee” payment structure.

Contract language should specify the requirements for back-up documentation that supports the cost reimbursement portion of the invoice, e.g., supplier invoices for food costs, and time and attendance documentation for labor costs. Additionally, the contract should also specify the management controls and accountability procedures, if the SFA advances money at the start of the school year, and for administrative costs charged by the FSMC.

- Food Purchasing

In developing a cost-reimbursable contract, SFA’s should incorporate a range of controls over purchasing, including whether the FSMC is permitted to purchase from its own subsidiaries, whether the cost of products is the sole determinant for purchase, and how trade discounts are passed through to the SFA.

If the SFA does the purchasing, clauses that limit the selection of vendors to only FSMC-approved vendors are not permitted. Such clauses have the effect of limiting open and free competition. FSMC’s may, however, recommend vendors.

In the case of cost-reimbursable contracts, the SFA should include a provision requiring a FSMC to demonstrate that the prices it is charging the SFA for food, supplies, etc., are reasonable and necessary. Additionally, SFA’s should include a provision which requires a FSMC to submit documentation periodically (i.e., monthly) that supports what the SFA was charged for each product purchased or makes such documentation available for inspection by the SFA.

- Food Inventory and Storage

The SFA should also include provisions that specify the particulars of food inventory and storage to identify the responsible party. Responsibility should be clearly delineated to ensure that all needed activities are covered, e.g., who is responsible for food storage and maintenance of inventory and for conducting the initial inventory and the final inventory.

Other considerations for inclusion in the contract are:

- Utilization of USDA donated foods on a first-in first-out basis.
- In cost-reimbursable contracts, whether the FSMC bills the SFA for foods when purchased or when used.
- The method by which inventories of food and supplies are handled at the beginning and end of the contract. For example, if the FSMC bills the SFA for supplies as purchased, rather than as used, the contract should ensure that the FSMC will purchase back unused supplies from the SFA at the conclusion of the contract in order to prevent over-buying.

- Nutrition Education

If the SFA requires the FSMC to take any responsibility for nutrition education and other non-meal services associated with the meal service component of the FSMC operation, the specific responsibilities should be delineated.

- Nondiscrimination

The SFA is always required to ensure that no child is discriminated against on the basis of race, color, national origin, age, sex or disability. Contract language must not diminish the intent of the nondiscrimination provision.

- Free and Reduced Price Policy

FSMC's often implement meal-related portions of the free and reduced price policy, such as distributing tickets, obtaining accurate meal counts and preventing overt identification of free and reduced price eligible students. Contracts should include language requiring the FSMC to comply with the SFA's free and reduced price meal policies.

## **Financial Provisions**

Contracts between SFA's and FSMC's provide the basis for payments and management of the business relationship. SFA oversight is of particular importance given the range of financial terms and conditions of SFA-FSMC contracts, such as fee structures, cost controls and financial management (Appendix J). The financial provisions discussed below all flow through the

nonprofit school food service account.

### **Fee Structures**

Federal program regulations permit two types of payment or fee structures in SFA contracts with FSMC's: a fixed-price or fee, and cost-plus-a-fixed-fee. SFA's must ensure that contract provisions are limited to the permissible fee structures.

Contracts are not permitted to contain a "cost-plus-a-percentage-of-cost" or "cost-plus-a-percentage-of-income" provision. (7 CRF §210.16(c))

- Fixed-price/fee, which is permissible either under an IFB or RFP, takes the form of a unit charge where the unit may be per meal or per time period, typically a year. For example, the FSMC might charge \$1.50 per meal or \$50,000 per year. In each instance, the fee charged is expected to cover all operating and administrative costs with no additional charges to the SFA.
- A cost-reimbursable contract, which is not permissible under an IFB, permits the FSMC to pass food service operating costs through to the SFA and charge an additional fixed- or flat-fee that covers management and administrative costs.

The fee may be described in different ways, e.g., service fee, management fee, administrative fee, or a combination of any of these. A "cost-plus-fixed-fee" contract may also have multiple fees. There may be a per meal cost and an annual fee. Also one fee might be called an administrative fee and another a management or service fee; typically, the administrative fee represents overhead costs and the management fee represents the profits.

The contract should have enough detail regarding fee structure to ensure that there is no double billing, i.e., same item(s) included in the management fee and administrative fee. Additionally, the contract should specify the cost documentation requirements.

### **Control of the Nonprofit School Food Service Account**

Contracts must include a provision that makes it clear that the SFA retains control of the nonprofit school food service account and overall financial responsibility for the nonprofit food service

operation. (7 CFR §210.16(a)(4))

Under cost-plus-fixed-fee contracts, all revenue, including refund payments for processed end products, and any expenses that are charged to a SFA must flow through the SFA's food service account(s). Revenue can be used only for the SFA's nonprofit school food service program and cannot accrue to the FSMC. FSMC expenses that are not billed to the SFA cannot be recorded as expenses to the food service account.

In addition, contracts must include a provision that reaffirms that the SFA establishes all prices, including price adjustments, for meals served under nonprofit school food service account (e.g., pricing for all reimbursable meals, a la carte service and vending machines, and adult meals). (7 CFR §210.16(a)(4))

- A La Carte Conversion (Per Meal Equivalency)

A component of the overall payment structure is the manner in which a la carte food service is counted and valued in a fee per meal contract. In a fee per meal contract, the FSMC is paid on the basis of the number of meals served. In order for a FSMC to be paid for the a la carte food service, many SFA's convert a la carte food service activity into an equitable number of reimbursable lunches. The conversion of the a la carte activity into an equitable number of lunches is termed the "per meal equivalency."

Contracts should define a per meal equivalency that fairly relates to the cost of producing the reimbursable lunch. One means of obtaining the per meal equivalency is by dividing the total cost of producing a la carte items sold by the unit cost of producing a reimbursable lunch.

Absent cost data, the SFA may obtain a per meal equivalency by dividing the a la carte revenue by the per meal sum of the Federal free reimbursement plus the value of USDA entitlement and bonus donated foods. A la Carte revenue should include all sales to adults and a la carte sales to students.

- Adult Meals

Adult meal charges must be established in accordance with FCS Instruction 782-5, Pricing of Adult Meals in the National School Lunch and School Breakfast Programs. Under that instruction, "Breakfasts and lunches served to teachers,

administrators, custodians and other adults must be priced so that the adult payment in combination with any per-lunch revenues from other sources designated specifically for the support of adult meals (such as State or local fringe benefit or payroll funds, or funding from voluntary agencies) is sufficient to cover the overall cost of the lunch, including the value of any USDA entitlement and bonus donated foods used to prepare the meal. If cost data are not available, the minimum adult payment should reflect the price charged to students paying the school's designated full price, plus the current value of Federal cash and donated food assistance (entitlement and bonus) for full price meals. In nonpricing programs, the adult charge should be at least the amount of reimbursement received for a free lunch under Sections 4 and 11 of the National School Lunch Act, plus the per-meal value of both USDA entitlement and bonus donated foods or, for breakfasts, the rate established for free meals under Section 4 of the Child Nutrition Act, plus the value of bonus commodities.”

- Changes in Prices Charged for Meals

While contract language that ensures that the SFA retains control over pricing is required, language that provides the SFA some formal means of changing prices is recommended.

- Special Functions

When reviewing cost-type contracts, particular attention should be given to the scope and pricing of special functions, which are conducted outside of the nonprofit school food service. Contract language should include a provision that prohibits the use of USDA donated foods or processed end products containing USDA donated foods for such functions. Separate billings for special functions are preferable to ensure that school food service costs and special function costs are not intermixed, thus preventing double billing.

- Vending Machines

Contracts should include a provision, which sets forth the SFA's position on vending machines, if applicable. This provision may include the SFA's position on the ownership of the machines, responsibility for maintenance, control of the revenues they generate, etc.

- **Adjustments to Payments**

The fee structure prescribed in a contract may require adjustment if actual experience does not conform to the assumptions upon which the original fee structure was based. Such cases may include unanticipated drops in enrollment or lowering of Federal reimbursement rates. Contracts may contain language permitting the SFA and FSMC to examine and renegotiate payment terms. Fee adjustments may not, however, be permitted unless provided for in the IFB or RFP and incorporated into the contract.

Any methods and basis for fee adjustment upon renewal must be addressed in the original contract. SFA's should consider limiting fee increases in some way, e.g., to no more than the percentage of change in the Consumer Price Index for All Urban Consumers.

Contracts that allow a FSMC to renegotiate its flat fee rate when a "guaranteed volume" has not been achieved are discouraged because this may inhibit open and free competition. FSMC's may provide an artificially low bid if it were thought that a guaranteed volume could not be achieved. Actual participation is dictated by the quality of the meal service over which the FSMC would have direct control.

### **Meal Program Cost Controls**

Cost and reporting controls must exist. Specifying the types of reports required of the FSMC provides a SFA with one important means of monitoring performance.

- **Program Cost Accounting and Reporting**

As appropriate, SFA's should require periodic reports on operations and state whether the contract is to include monthly profit and loss statements or operating cost reports, daily meal counts, and end of year financial statements.

- **Control of Food Service Equipment Purchases**

Food service equipment represents a major capital investment for SFA's. The addition or replacement of equipment by the FSMC without prior approval from the SFA presents a risk to the SFA. Contracts should provide the SFA with final, prior approval authority for the purchase of equipment that would be



used in the storage, preparation and delivery of school meals. Contracts should establish an amortization schedule, if appropriate. Whether or not an amortization schedule is used, title to the property must be vested with the SFA when the equipment is placed in service.

Clauses that require the full repayment of unamortized costs incurred by the FSMC when the contract is terminated or not renewed are not permitted. The contract should state that the SFA can retain the property and continue to make payments in accordance with the amortization schedule or return the property to the FSMC in full release of the unpaid balance. Payment of interest on borrowing, however represented, is an unallowable cost under OMB Circular No. A-87, Cost Principles for State and Local Governments.

- **Performance Security**

A performance security, or bond, is a method available to a SFA to obtain financial recourse in the event that the FSMC fails to perform in a satisfactory manner or defaults on its duties and responsibilities. The performance security would be specified as a flat amount or as a percent of the estimated value of service.

A performance security or bond must be from a surety company listed in the most recent U.S. Department of Treasury Circular 570. SFA's, however, are reminded that OMB Circular No. A-102 considers unnecessary experience and bonding requirements to be restrictive of competition. For example, a \$10 million bond would be unnecessary for a \$1 million contract.

## **Operating Cost Guarantees and Recovery**

- **Guarantees**

Contracts for food services may also contain language by which the FSMC guarantees to meet fiscal goals specified by the SFA. Any guaranteed return promised by the FSMC must remain in the nonprofit food service account. If the contract contains such guarantees, the contract should also contain language that ensures that the FSMC bears responsibility for failure to meet those goals. "Returns" cannot be contingent upon multi-year contract duration.

- **Loss Recovery**

Contracts are the appropriate place to address liability for losses. Contracts usually address FSMC liability in one of two ways: the FSMC may either be required to reimburse the SFA for the loss without limit or it may reimburse the SFA with limits equal to the management fee or a specified ceiling. Contracts should also address the length of time the SFA can seek recovery of losses. SFA's should seek recovery of any losses for a period of time corresponding to the SFA's period of liability.

- **Recovery of Overclaims**

SFA's are encouraged to add a provision in the contract that requires the FSMC to pay the SFA for any overclaims assessed by the ADE due to FSMC negligence or noncompliance with regulations. This liability should correspond to the 5-year record retention period established by the State. (Refer to the paragraph concerning "Nonperformance" in this chapter.)

- **Negligence**

It is also suggested that any waiver of liability by the SFA for damages by the FSMC to equipment or facilities contain an exclusion to this waiver for any damages caused by negligence.

## **Other Provisions**

### **Reporting and Recordkeeping Requirements**

Contract language must ensure that the FSMC maintains such records as the SFA will need to support its claim for Reimbursement and must, at a minimum report claim information to the SFA promptly at the end of each month. Contract language must state that such records be made available to the SFA upon request. (7 CRF §210.16(c)(1))

Contract language should ensure that FSMC's maintain appropriate business records, as applicable, e.g., food and supply bid specifications, purchase orders, invoices, and personnel records that relate to the provision of food services to a SFA.

Contract language must ensure that the FSMC retains records to support the SFA's Claim for Reimbursement for the daily number of meals served, by type. (7 CRF §210.16(c)(1))

The SFA may want to require reports of program income by school and expenditures, meals served to adults, value of a la carte sales, value of USDA donated foods including processed USDA donated foods, and amount of milk served.

Contract language must ensure that the FSMC report the daily number of meals served by type. (7 CRF §210.16(c)(1))

It is recommended that all FSMC records pertaining to the SFA be maintained at the SFA while the contract is in effect, and copies of those records be delivered to the SFA at the conclusion of the contract.

Contract language must ensure that the FSMC adheres to the record retention requirements, i.e., records must be retained for a period of five (5) years after the SFA submits the final Claim for Reimbursement for the fiscal year for inspection and audit by representatives of the SFA, ADE, USDA and the Comptroller General, at any reasonable time and place. (7 CRF §210.23(c))

Contract language must stipulate that if audit findings have not been resolved, the records must be retained beyond the 5-year period for as long as required for the resolution of the issues raised by the audit. (7 CRF §210.16(c)(1), §210.23(c) and ARS §35-214(A)).

SFA's/FSMC's may retain necessary records in their original form or on microfilm. Contracts should stipulate whether original or microfilm records are required and that records are:

- Maintained in such a way that they are easily accessible;
- Available upon demand; and
- Available at the SFA premises rather than at an FSMC location.

## **Facilities Management**

Contracts should clearly define the responsibilities for food service facilities and operations, such as providing the meal preparation and service facilities, repair and maintenance of equipment, cleaning of the dining areas, trash removal, exterminator services, and repairs.

## **Hiring and Personnel Practices**

Contracts for food services generally contain language about personnel management including hiring practices, management of staff and employee benefits.

- **SFA and FSMC Staff**

Contract language should enable the SFA to have final approval authority for the FSMC's school lunch manager. The SFA may want to consider including educational requirements and experience requirements for the school lunch manager position.

Contracts may have provisions against cross-hiring. Cross-hiring refers to the hiring of staff by one party to a contract when such employees are employed by the second party to the contract. Such practices would be of concern if the SFA sought to hire a member of the FSMC staff rather than renewing the contract.

Cross-hiring provisions by either the SFA or the FSMC should be reviewed by the SFA's legal counsel to ensure compliance with Federal and State labor laws.

- **Personnel Management**

Contracts should define responsibility for personnel management in some fashion. In general, FSMC's are responsible for personnel management, even when the staff they are managing are employees of the SFA. Management activities may include employee and labor relations, personnel development, and hiring and termination of management staff. Contracts should also specify responsibility for non-management staff hiring and firing.

- **Employee Benefits**

Contracts should define responsibility for employee benefits and refer to the responsibilities placed upon the FSMC with respect to its own employees. The benefits identified in contracts may include medical benefits, insurance, retirement and holiday pay.

## **Insurance Requirements**

To protect the interests of the SFA, contracts for food services should also contain language about insurance requirements for the

FSMC's. Contracts generally identify three liabilities, i.e., comprehensive general liability, workman's compensation, and vehicle insurance. SFA's, however, are reminded that the cost of unnecessary insurance is unallowable under the Federal cost principles.

### **Nonperformance**

In addition to the "no payment" provision identified under the "Meal Service Provisions" section of this chapter, all contracts must contain provisions that allow for administrative, contractual, or legal remedies on instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Appendix A, OMB Circular No. A-102, Attachment O, paragraph 14.a)

SFA's should add a provision in the contract language that requires the FSMC to pay the SFA any overclaims due to FSMC negligence or noncompliance with regulations, including those overclaims based on review or audit findings.

It is recommended that the time limit established in the contract for this provision correspond to the State record retention timeframe of 5 years.

### **Contract Duration**

The contract language must identify a beginning and ending date to ensure that the contract between the SFA and the FSMC is no longer than 1 year in duration. (7 CFR §210.16(d))

The beginning date should not be prior to the date the contract is signed.

Options for yearly renewal of a contract must not exceed four additional 1 year extensions. (7 CFR §210.16(d))

The basis for renewing the contract, including price increase or decrease provisions, if any, should be stated in the contract and IFB/RFP, as appropriate. Price increase/decrease provisions should be based on a measurable index such as the Consumer Price Index for All Urban Consumers.

## Termination Clause

All contracts must contain a termination clause whereby either party may cancel for cause with 60-day notification. (7 CRF §210.16(d))

All contracts in excess of \$10,000 must contain suitable provisions for termination by the SFA, including the manner by which it will be effected and the basis for settlement. Such contracts must describe conditions under which the contract may be terminated for default, as well as conditions where the contract may be terminated because of circumstances beyond the control of the FSMC. (Appendix A, OMB Circular No. A-102, Attachment O, paragraph 14.b)

SFA's may also want to include a termination for convenience clause that provides adequate advance notice that would permit the SFA sufficient time to arrange alternate food service if the FSMC exercises the clause.

## Certifications

All contracts must include certification of compliance with the provisions of the following Acts and regulations, as specified below.

OMB Circular No. A-102, Attachment O, provided in Appendix A identifies the authority for the required contract language. Reference this appendix for specific contract language.

- For all contracts:

Energy Policy and Conservation Act. (Appendix A, OMB Circular No. A-102, Attachment O, paragraph 14.j)

- For contracts in excess of \$2,500:

Provisions of the Contract Work Hours and Safety Standards Act for those contracts involving food service workers whose duties are manual or physical in nature. (Appendix A, OMB Circular No. A-102, Attachment O, paragraph 14.f)

- For all contracts in excess of \$10,000:

Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and Department of Labor regulations. (Appendix A, OMB Circular

No. A-102, Attachment O, paragraph 14.c)

For any contracts involving research, developmental (such as software), experimental or demonstration work:

The requirements established in USDA regulations concerning USDA rights in data and reporting of discoveries and inventions. (Appendix A, OMB Circular No. A-102, Attachment O, paragraph 14.g)

- For all contracts of \$100,000 or more:

Debarment, Suspension, Ineligibility and Voluntary Exclusion --Lower Tier Covered Transactions. (7 CFR Part 3017)

SFA's should contact ADE for further information regarding debarment and suspension. A copy of the certification statement used by USDA in nonprocurement transactions is provided in Appendix K. The FSMC and not the SFA is required to sign this certification. Contract renewals must include a newly signed certification.

- For all contracts in excess of \$100,000:

Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and Environmental Protection Agency regulations. (Appendix A, OMB Circular No. A-102, Attachment O, paragraph 14.i) Certification Regarding Lobbying, pursuant to 31 USC 1352, (7 CFR Part 3018)

In accordance with the provisions of 7 CFR Part 3018, FSMC's who bid for an award exceeding \$100,000 must submit a certification regarding lobbying which conforms in substance with the language provided in 7 CFR Part 3018. A copy of the certification regarding lobbying form used by USDA is provided in Appendix L.

Disclosure of Lobbying Activities, pursuant to 31 USC 1352, (7 CFR Part 3018)

In accordance with the provisions of 7 CFR Part 3018, FSMC's who bid for an award exceeding \$100,000 must disclose Federal lobbying activities in connection with school nutrition programs. SFA's should contact the ADE for further information regarding disclosure of lobbying activities. A copy of the

disclosure of lobbying activities form is provided in Appendix M.

### **Optional Contract Provisions**

**While not required, SFA's are encouraged to include provisions for:**

- Civil Rights Compliance

Compliance with the following, as amended: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; 7 CFR Parts 15, 15a and 15b; and FCS Instruction 113-6, Civil Rights Compliance and Enforcement in the School Nutrition Programs. While it is the SFA's responsibility to ensure compliance with the civil rights requirements, this provision is intended to ensure that the food service operation conducted by the FSMC does not compromise SFA compliance with these requirements.

- Buy American

Compliance with the Buy American provision for contracts that involve the purchase of food by the FSMC. While compliance with the Buy American provision is a SFA responsibility under 7 CFR Part 250, inclusion of this provision on the contract is intended to ensure that the FSMC's operations do not compromise SFA compliance.

- Specifications

A provision stating that any silence, absence or omission from the contract specifications concerning any point must be regarded as meaning that only the best commercial practices are to prevail, and that only materials (food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA is to be used. This provision should be contained in both the IFB/RFP and the contract.

- Certification of Independent Price Determination (also known as "non-collusion statement")

While not required by program regulations, it is strongly suggested that SFA's and FSMC's certify that the prices in the offer have been arrived at independently, without consultation, communication or agreement for the purpose of restricting



competition. A sample certification of the Certification of Independent Price Determination form is provided in Appendix N.

Appendix D, Section I, highlights some unallowable SFA-FSMC contract document provisions.

## **Chapter 6**

### **ADE Review**

|                                     |  |
|-------------------------------------|--|
| <b>Timing</b>                       | <p>Under 7 CFR 210.19(a)(6), the ADE must review the SFA-FSMC contract documents, i.e., contracts, completed IFBs/RFPs that become signed contracts and all contract renewals. The amount of time needed for these reviews and when they occur will be determined by the ADE and will depend upon a variety of factors.</p> <p>Under a sealed bid procurement or competitive negotiation, the ADE will review the document prior to the SFA's issuance. Sufficient time should be allotted for the ADE to conduct this review and make recommendations. <u><i>The document must not be issued until it is approved by the ADE.</i></u></p> <p>Also, ADE must review and approve the contract before the document is signed. Reimbursement will not be paid until all contract documents, i.e., IFB/RFP, contract and contract renewals, have first been approved by ADE.</p> |
| <b>Contract Checklist</b>           | <p><b><i>A SFA-FSMC Contract Document Checklist is provided in Appendix D. The checklist should be completed by the SFA and submitted with documents to be reviewed by the ADE. In the case of renewals, the SFA may want to submit with the renewal documents a copy of the checklist submitted with the initial contract, with notations where changes have occurred and an indication of the basis for the renewal.</i></b></p>   |
| <b>Response to the ADE Comments</b> | <p>The ADE comments must be accommodated into the IFB/RFP and/or contract. Once the comments are incorporated into the documents, another ADE review on the documents is performed. Approval will be given upon a properly completed document. Any revision required by the ADE for the IFB/RFP and/or final contract must be accommodated before a contract can be finalized.</p> <p>For both sealed bid and negotiated contracts, a copy of the signed contract must be submitted to ADE.</p>  |

## Chapter 7

### SFA Monitoring/Recordkeeping Responsibilities

#### Monitoring

The SFA must monitor the operation of the FSMC through periodic on-site visits to ensure that the FSMC complies with the contract and any other applicable Federal, State and local rules and regulations. The SFA should maintain documentation of its monitoring, any corrective action required, and whether or not corrective action was taken. The SFA's contract monitoring responsibilities include, but are not limited to evaluating:

**Cycle Menu**-adherence to the cycle menu and any and all deviations allowed under the contract.

**Meal Pattern**-adherence to the meal pattern requirements specified in 7 CFR Parts 210 and/or 220.

**Claim Documentation**-records, by school, to support the Claim for Reimbursement (meal/milk counts and any other data on the claim for which the FSMC is responsible).

**Cost Records**-cost records, including source documentation supporting charges for contractually approved costs for cost-based contracts, e.g., time and attendance records for staff hours charged.

**Meal Count Records**-meal count records for meals not covered by the Claim for Reimbursement, e.g., adult meals, etc.

**Revenue Records**-revenue records broken down by source, type and category of meal or food service, e.g., a la carte sales, reduced price and full price NSLP and SBP meals, vending machine sales, etc.

**Outside Activities**-outside food service activities.

**Preparation Facilities**-the FSMC meal preparation facilities.

#### USDA Donated Foods

- the amount and kind of donated food offered versus accepted to determine if the FSMC is accepting USDA donated foods to the maximum extent, in quantities that can be used and stored without waste.
- the utilization of the donated food by the FSMC.

- the value-pass-through of the USDA donated food for fixed-price contracts, e.g., credits or reductions on the invoice in the month of utilization.

### **Additional Monitoring Responsibilities**

The SFA must conduct on-site school reviews and must monitor through these reviews and by other means:

**Civil Rights**-compliance with civil rights requirements. In addition to monitoring compliance, the SFA must ensure the FSMC complies with the procedures established by the SFA for referring any civil rights complaints to the SFA.

**Free and Reduced Price Policy**-adherence to the SFA's approved free and reduced price meal policy statement.

**Offer versus Serve**-compliance with offer versus serve requirements.

**Competitive Foods**-compliance with the competitive foods requirements of the NSLP regulations in all schools by all parties.

**SFA Policies**-compliance with all policies established by the SFA.

### **Recordkeeping Responsibilities**

The SFA must maintain any books, documents, papers and records directly pertinent to: the solicitation, award or extension of any given contract and the implementation of that contract. Such records must be maintained for a period of 5 years. If audit findings have not been resolved, the records must be retained beyond the 5 year retention period for as long as required for the resolution of the issues raised by the audit.

## **Chapter 8**

### **Contract Duration/Renewals**

#### **Duration**

As stated earlier, the contract duration must be limited to one year, with the effective beginning and ending dates stated in the contract. The beginning date should not be prior to the date the contract is signed. Additionally, contract renewals must also state the date by which the renewal must be executed by both the SFA and FSMC. Although four one-year renewals are permitted, contracts cannot contain automatic renewal provisions. The renewal date must occur on or prior to the expiration date of the current contract. Any provisions, including adjustments to payments, that will be used for renewing contracts must be stated in the contract and the IFB or RFP, as applicable. These alterations cannot result in substantive changes to the original contract. If the SFA determines that significant changes are necessary, the SFA must rebid the contract. The following changes would normally not substantially change the contract:

**Number of Schools**-new schools added;

**Changes in Enrollment**-decreases and increases in student enrollment and the corresponding change expected in participation;  
**Changes in Price**-meal price changes (determined by the SFA);

**Cost Increases**-cost increases limited to a measurable index (such as the Consumer Price Index for All Urban Consumers); and

**Meal Equivalency**-minor adjustments to the per meal equivalency.

Examples of substantive changes which could require the SFA to rebid the contract include: the addition of a program, such as the SBP; major changes to the formula for determining meal equivalency; a major shift in responsibilities for SFA/FSMC staff; and significant changes in the basis for determining guaranteed returns.

#### **Renewals**

While contract renewals are permitted, a SFA is not required to renew the contract for an additional year and should do so only after careful evaluation of the FSMC's performance and a determination that the renewal will benefit the SFA. Among the elements that should be used when deciding whether to renew a contract are:

**Performance**-the overall performance of the FSMC in accordance with the contract provisions, including the FSMC's completion of planned activities as described in the contract. The SFA should document its findings while conducting its monitoring requirements of the FSMC and refer to these documents when making this determination. In addition to reviewing the deficiencies noted in the FSMC's performance, the SFA should review the effectiveness of the FSMC's corrective action plans.

**Meal Quality**-meal quality, including adherence to menu cycle/food specifications, and complaints.

**Costs**-the full cost of using a FSMC versus the projected costs under the contract.

**Financial Status**-the overall financial status of the food service operation and the food service account.

**Unexpected Costs**-any unexpected costs incurred as a result of using an FSMC, and any unexpected cost reductions that have resulted from using a FSMC. The SFA should ascertain these costs based on information received from the FSMC and other sources.

**Participation**-participation trends including NSLP/SBP participation compared to a la carte sales.

**Advisory Board**-the comments and recommendations of the advisory board and the FSMC's responsiveness to these recommendations.

**Adjustments to Payments**-any increase in the prices requested by the FSMC or any change in the basis upon which the FSMC is paid.

**Use of USDA Donated Foods**-utilization of USDA donated foods, including the current inventory on hand.

**Corrective Actions**-recommendations from local, State and Federal reviews and audits, including the status of required corrective actions.

# **APPENDICES**

**OMB Circular No. A-102, Attachment O  
PROCUREMENT STANDARDS**

1. Applicability

- a. This Attachment establishes standards and guidelines for the procurement of supplies, equipment, construction and services for Federal assistance programs. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and executive orders.
- b. No additional procurement requirements or subordinate regulations shall be imposed upon grantees by executive agencies unless specifically required by Federal law or executive orders or authorized by the Administrator for Federal Procurement Policy. This prohibition is not applicable to payment conditions issued in accordance with Treasury Circular 1075, individual grantee requirements pursuant to Section 10 of the basic circular or the provisions of this or other OMB circulars.
- c. Provisions of current subordinate requirements not conforming to this Attachment shall be rescinded by grantor agencies unless approved by the Office of Federal Procurement Policy (OFPP).

2. Grantee/Grantor Responsibility

- a. These standards do not relieve the grantee of any contractual responsibilities under its contracts. The grantee is responsible in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered in support of a grant. These include but are not limited to source evaluation protests, disputes, and claims. Executive agencies shall not substitute their judgment for that of the grantee unless the matter is primarily a Federal concern. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.
- b. Grantees shall use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements for Federal Assistance Programs conform to the standards set forth in this Attachment and applicable Federal law.

3. Grantee Procurement Improvement

Executive agencies awarding Federal grants or other assistance which require or allow for procurement by the recipients are encouraged to assist recipients in improving their procurement capabilities by providing them with technical assistance training, publications, and other aid.

4. Procurement System Reviews

Executive agencies are encouraged to perform reviews of their grantees' procurement systems if a continuing relationship with the grantee is anticipated or a substantial amount of the Federal assistance is to be used for procurement and review of individual contracts is anticipated. The purpose of the review shall be to determine:

- (1) whether a grantee's procurement system meets the standards prescribed by this



Attachment or other criteria acceptable to the OFPP, such provisions of the Model Procurement Code for State and local government; and (2) whether the grantee's procurement system should be certified by the reviewing agency. Such a review will also give an agency an opportunity to give technical assistance to a grantee to remedy its procurement system if it does not fully comply. In addition, such a review may provide a basis for deciding whether the grantee's contracts and related procurement documents should be subject to the grantor's prior approval, as provided by Section 6.

- b. In conducting procurement system review, grantor agencies will evaluate a grantee's procurement system in terms of whether it complies with the standards prescribed by this Attachment and represents a fair, efficient and effective procurement system. To the maximum extent feasible, reviewers will rely upon State or local evaluations and analyses performed by agencies or organizations independent of the grantee contracting activity.
- c. When a Federal grantor agency completes a procurement review, it shall furnish a report to the grantee, with a copy to OFPP
- d. All agencies should normally rely upon the resultant findings or certification for a period of 24 months before another review is performed.
- e. Reviews shall be conducted in accordance with standards and guidelines approved or issued by OFPP.
- f. The reviews authorized by Section 6 are waived if a grantee's procurement system is certified.

## 5. Protest Procedures

- a. Grantor agencies may develop an administrative procedure to handle complaints or protests regarding grantee contractor selection actions. The procedure shall be limited as follows:
- b. No protest shall be accepted by the grantor agency until all administrative remedies at the grantee level have been exhausted.
- c. Review is limited to:
  - (i) Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.
  - (ii) Violations of grantee's protest procedures or failure to review a complaint or protest.

## 6. Grantor Review of Proposed Contracts

Federal grantor pre-award review and approval of the grantee's proposed contracts and related procurement documents, such as requests for proposal and invitations for bids, is permitted only under the following circumstances:

- a. The procurement is expected to exceed \$10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation.

- b. The procurement expected to exceed \$10,000 specifies a "brand name" product; or
- c. The grantee's procurement procedures or operation fails to comply with one or more significant aspects of this Attachment. The grantor agency shall notify the grantee in writing, with a copy of such notification to the OFPP.

7. Code of Conduct

Grantees shall maintain a written code or standards of conduct, which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer or agent;
- b. Any member of his immediate family;
- c. His or her partner; or
- d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

8. Procurement Procedures

The grantee shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by grantee officials to avoid the purchase of unnecessary or duplicative items. Consideration should be given to consolidation or breaking out to obtain a more economical purchase. "here appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. To foster greater economy and efficiency, grantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

9. Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms

- a. It is national policy to award a fair share of contracts to small and minority business

firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of suppliers, equipment, construction and services. Affirmative steps shall include the following:

- (1) Including qualified small and minority businesses on solicitation lists.
  - (2) Assuring that small and minority businesses are solicited whenever they are potential sources.
  - (3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
  - (4) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.
  - (5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.
  - (6) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in 1 through 5 above.
- b. Grantees shall take similar appropriate affirmative action in support of women's business enterprises.
  - c. Grantees are encouraged to procure goods and services from labor surplus areas.
  - d. Grantor agencies may impose additional regulations and requirements in the foregoing areas only to the extent specifically mandated by statute or presidential direction.

#### 10. Selection Procedures

- a. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this Attachment. Procurement procedures shall not restrict or eliminate competition. Example of what is considered to be restrictive of competition include, but are not limited to: (1) placing unreasonable requirements on firms in order for them to qualify to do business; (2) noncompetitive practices between firms; (3) organizational conflicts of interest; and (4) unnecessary experience and bonding requirements.
- b. The grantee shall have written selection procedures, which shall provide, as a minimum, the following procedural requirements:
  - (1) Solicitations of offers, whether by competitive sealed bids or competitive negotiation shall:
    - (a) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative

nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

- (b) Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (2) Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

#### 11. Method Procurement

Procurement under grants shall be made by one of the following methods, as described herein: (a) small purchase procedures; (b) competitive sealed bids (formal advertising); (c) competitive negotiation; (d) noncompetitive negotiation.

- a. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate not more than \$10,000. Grantees shall comply with State or local small purchase dollar limits under \$10,000. If small purchase procedures are used for procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.
- b. In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price.
  - (1) In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following:
    - (a) A complete, adequate and realistic specification or purchase description is available.
    - (b) Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.
    - (c) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.
  - (2) If formal advertising is used for procurement under a grant the following requirements shall apply:

- (a) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.
  - (b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.
  - (c) All bids shall be opened publicly at the time and place stated in the invitation for bids.
  - (d) A firm-fix-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the grantee indicates that such discounts are generally taken.
  - (e) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.
- c. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for procurement under a grant, the following requirements shall apply:
- (1) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposal shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.
  - (2) The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.
  - (3) The grantee shall provide mechanisms for technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.
  - (4) Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.
  - (5) Grantees may utilize competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitors' is selected, subject to negotiation of fair and reasonable compensation.

- d. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:
  - (1) The item is available only from a single source;
  - (2) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;
  - (3) The Federal grantor agency authorizes noncompetitive negotiation; or
  - (4) After solicitation of a number of sources, competition is determined inadequate.
- e. Additional innovative procurement methods may be used by grantees with the approval of the grantor agency. A copy of such approval shall be sent to the OFPP.

## 12. Contract Pricing

The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used. Grantees shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.

## 13. Grantee Procurement Records

Grantees shall maintain records sufficient to detail the significant history of procurement. These records shall include, but are not necessarily limited to information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

## 14. Contract Provision

In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal law or the grantor agency.

- a. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
- b. All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

- c. All contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- d. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti – Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.
- e. When required by the Federal grant program legislation, all construction contracts in excess of \$2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.
- f. Where applicable, all contracts awarded by grantees and subgrantees in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a. provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence.
- g. The contract shall include notice of grantor agency requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of grantor agency requirements and regulations pertaining to copyrights and rights in data.

- h. All negotiated contracts (except those awarded by small purchase procedures) awarded by grantees shall include a provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

Grantees shall require contractors to maintain all required records for three years after grantees make final payments and all other pending matters are closed.

- i. Contracts, subcontracts, and subgrants of amounts in excess of \$100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the USEPA Assistant Administrator for Enforcement (EN-329).
- j. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

Grantor agencies are permitted to require changes, remedies, changed conditions, access and record retention and suspension of work clauses approved by the Office of Federal Procurement Policy.

15. Contract Administration

Grantees shall maintain a contract administration system ensuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.



**FEDERAL REGULATIONS 7 CFR §210.16**  
**FOOD SERVICE MANAGEMENT COMPANIES**

- (a) **General**. Any school food authority (including a State agency acting in the capacity of a school food authority) may contract with a food service management company to manage its food service operation in one or more of its schools. However, no school or school food authority may contract with a food service management company to operate an a la carte food service unless the company agrees to offer free, reduced price and paid reimbursable lunches to all eligible children.

Any school food authority that employs a food service management company in the operation of its nonprofit school food service shall:

- (1) Adhere to the procurement standards specified in §210.21 when contracting with the food service management company;
- (2) Ensure that the food service operation is in conformance with the school food authority's agreement under the Program;
- (3) Monitor the food service operation through periodic on-site visits;
- (4) Retain control of the quality, extent and general nature of its food service, and the prices to be charged the children for meals;
- (5) Retain signature authority on the State agency–school food authority agreement, free and reduced price policy statement and claims;
- (6) Ensure that all federally donated foods received by the school food authority and made available to the food service management company accrue only to the benefit of the school food authority's nonprofit school food service and are fully utilized therein;
- (7) Maintain applicable health certification and assure that all State and local regulations are being met by a food service management company preparing or serving meals at a school food authority facility; and
- (8) Establish an advisory board composed of parents, teachers and students to assist in menu planning.

- (b) **Invitation to bid**. In addition to adhering to the procurement standards under §210.21, school food authorities contracting with food service management companies shall ensure that:

- (1) The invitation to bid or request for proposal contains a 21-day cycle menu developed in accordance with the provisions of §210.10 or §210.10a, whichever is applicable, to be used as a standard for the purpose of basing bids or estimating average cost per meal. If a school food authority has no capability to prepare a cycle menu, it may, with State agency approval, request that a 21-day cycle menu developed in accordance with the provisions of §210.10 or §210.10a, be developed and submitted by each food service management company which intends to submit a bid

or proposal to the school food authority. The food service management company must adhere to the cycle for the first 21 days of meal service. Changes thereafter may be made with the approval of the school food authority.

- (2) Any invitation to bid or request for proposal indicate that nonperformance subjects the food service management company to specified sanctions in instances where the food service management company violates or breaches contract terms. The school food authority shall indicate these sanctions in accordance with the procurement provisions stated in §210.21.
- (c) **Contracts.** Contracts that permit all income and expenses to accrue to the food service management company and “cost-plus-a-percentage-of-cost” and “cost-plus-a-percentage-of-income” contracts are prohibited. Contracts that provide for fixed fees such as those that provide for management fees established on a per meal basis are allowed. Contractual agreements with food service management companies shall include provisions which ensure that the requirements of this section are met. Such agreements shall also include the following:
- (1) The food service management company shall maintain such records as the school food authority will need to support its Claim for Reimbursement under this part, including production and menu records as required under §210.10a and production and menu records and, if appropriate, nutrition analysis records as required under §210.10, whichever is applicable and shall, at a minimum, report claim information to the school food authority promptly at the end of each month. Such records shall be made available to the school food authority, upon request, and shall be retained in accordance with §210.23(c).
  - (2) The food service management company shall have State or local health certification for any facility outside the school in which it proposes to prepare meals and the food service management company shall maintain this health certification for the duration of the contract.
  - (3) No payment is to be made for meals that are spoiled or unwholesome at time of delivery, do not meet detailed specifications as developed by the school food authority for each food component or menu item as specified for the appropriate menu planning alternative in §210.10 or for each food component in §210.10a, whichever is applicable, or do not otherwise meet the requirements of the contract. Specifications shall cover items such as grade, purchase units, style, condition, weight, ingredients, formulations and delivery time.
- (d) **Duration of contract.** The contract between a school food authority and food service management company shall be of a duration no longer than 1 year; and options for the yearly renewal of a contract signed after February 16, 1988, may not exceed 4 additional years. All contracts shall include a termination clause whereby either party may cancel for cause with 60-day notification.

## SCHEDULE OF EVENTS

| SUGGESTED DATES | ACTIVITY  |
|-----------------|---|
| January 1       | Prepare the Invitation for Bid (IFB)/Request for Proposal (RFP) according to requirements as indicated in the National School Lunch Program Regulations 7 CFR § 210, 210.16, and OMB Circular No. A-102, Attachment O.  |
| February 1      | Submit the proposed IFB/RFP to the Child Nutrition Program (CNP) Office for review and approval.  |
| February 15     | <p>Advertise for bids/proposals upon receipt of approval from the CNP Office. SFA may choose to conduct a pre-bid conference.</p> <ul style="list-style-type: none"> <li>a) Four or less prospective bidders; notice of IFB/RFP must be published twice in the county paper: <ul style="list-style-type: none"> <li>– There must be 6-10 days between the first and second notice</li> <li>– The first notice must be no less than two weeks prior to the bid opening</li> </ul> </li> <li>b) For more than four prospective bidders; issue IFB/RFP to all prospective bidders at least 14 days prior to bid opening</li> </ul> |
| March 15        | <p>Review bids/proposals received by Board.</p> <ul style="list-style-type: none"> <li>a) IFB; review bids to determine the one that is most advantageous for food service operations</li> <li>b) RFP; rate proposals according to established criteria and negotiate</li> </ul>  |
| April 1         | <p>Board accepts the most advantageous bid/proposals for Food Service.</p> <ul style="list-style-type: none"> <li>a) IFB; SFA must award the contract to the lowest responsive and responsible bidder</li> <li>b) RFP; SFA must award the contract to the most advantageous to the School District – award based only on factors set forth in the RFP</li> </ul>  |
| April 15        | SFA prepares the contract for Food Service.   |
| May 1           | Submit the contract to the CNP Office for review and approval.  |
| May 15          | Both parties and their attorneys review the contract upon receipt of approval from the CNP Office.  |
| June 1          | Both parties sign the contract.   |
| June 15         | <p>A copy of the final, <b><u>signed</u></b> contract is sent to the CNP Office.</p> <p>In the case of a contract renewal, a copy of the signed contract addendum is submitted to the CNP Office.</p>   |

**All events listed must be completed before contracted food service activities begin.**

## SFA-FSMC Contract Document Checklist

### General Information

This checklist is based on the requirements contained in 7 CFR Parts 210, 3015, 3017, and 3018, and OMB Circular No. A-102, Attachment O. OMB Circular No. A-102, Attachment O, has been provided at Appendix A to the Guidance as a reference for specific contract document language. This checklist does not include the requirements applicable to those FSMC's subject to the provisions of 7 CFR 250.30, State processing of USDA donated food. For information regarding those requirements, the SFA should contact the ADE. The SFA must ensure that the ADE has reviewed and approved any processing agreement prior to the delivery of commodities for processing.

Though the checklist identifies certain unallowable SFA-FSMC contract document provisions (page 7) and advisable contract document provisions (pages 8 and 9), it is in no way inclusive of all such provisions. The ADE **must** carefully examine the contract documents to ensure that it **does not** contain other unallowable contract document provisions as well as provisions that are **not** in the best interest of the SFA. Careful scrutiny of the contract documents is required to ensure that there are no provisions that have the effect of restricting competition. If States have additional contractual requirements, an addendum to the checklist may be attached.

### Contract Document Review

ADE reviews are required of contracts, proposed IFBs/RFPs, and all contract renewals. This checklist should be completed by the SFA and submitted with the reviewed documents to the ADE within the timeframe established by the ADE.

### Instructions

In the blanks provided, for each of the required provisions contained in the checklist, indicate the page number in the documents where the provision is contained.

The following sections should be completed or updated, as applicable:

**Section A. Cover Sheet**, page 1

**Section B. SFA Responsibilities**, pages 2 and 3

**Section C. FSMC Responsibilities**, page 4

**Section D. General Terms - All SFA-FSMC Contracts**, page 5

**Section J. Advisable Inclusions**, page 8 and 9

The following section(s) should be completed or updated, as applicable (in the case of a cost-reimbursable contract, the total value of the contract must reflect the management fees as well as the direct costs incurred by the FSMC which are billed to the SFA such as food and labor):

**Section E. SFA-FSMC Contracts in Excess of \$2,500, page 5**

**Section F. SFA-FSMC Contracts in Excess of \$10,000, page 5**

**Section G. SFA-FSMC Contracts in Excess of \$100,000, page 6**

**Section H. SFA-FSMC Contracts Involving Research, Developmental, Experimental and Demonstration Work, page 6**

The following section should be completed or updated:

**Section I. Unallowable SFA-FSMC Contract Document Provisions, page 7**

**Initial Contract-** SFA should include a copy of the checklist when submitting the IFB/RFP and contract to ADE.

**Contract Renewal-**if the option for the yearly renewal of a contract is exercised, the SFA should include a copy of the checklist which was submitted with the initial contract, and a new checklist cover sheet, when submitting the extension agreement to ADE. The initial checklist should include notation(s) where changes have occurred. The basis for renewing the contract, as well as the basis for any fee increases or decreases, if applicable, should be noted. Additionally, a new Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions and Certification Regarding Lobbying are required for each renewal period. (The FSMC must sign both certifications, however the SFA is required to only sign the certificate regarding lobbying.)

**SFA-FSMC Contract Document Checklist****Section A - Cover Sheet**

SFA Use: Review of the following attached documents was completed relative to the applicable requirements contained in this checklist.

Proposed Documents:

- ☐ Invitation for Bid (IFB)                      ☐ Request for Proposal (RFP)                      ☐ Contract
- ☐ Contract Renewal. Indicate basis for both renewal and fee increases or decreases, if applicable:

☐ 1st Renewal                      ☐ 2nd Renewal                      ☐ 3rd Renewal                      ☐ 4th Renewal

Period Covered by Renewal: From: \_\_\_\_\_ To: \_\_\_\_\_  
(Date) (Date)

For Awarded Contract:

Name of FSMC: \_\_\_\_\_

Agreement No.: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Fee Structure of Contract                      ☐ Fixed Fee                      ☐ Cost-plus-a-fixed-fee (cost reimbursable)

School Food Authority: \_\_\_\_\_

School Name(s): \_\_\_\_\_

Period Covered by Contract: From: \_\_\_\_\_ To: \_\_\_\_\_  
(Date) (Date)

SFA Authorized Representative: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature)

**State Agency Use**

Date Received: \_\_\_\_\_

Date Approved: \_\_\_\_\_

Action Taken:

State Agency Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature)

## Section B - SFA Responsibilities

### Page No.

- \_\_\_\_\_ 1. **Provisions under Program Agreement, §210.16(a)(2)**-ensure that the food service operation is in conformance with the SFA's agreement under the program.
- \_\_\_\_\_ 2. **Signature Authority, §210.16(a)(5)**-retain signature authority on the ADE-SFA agreement, free and reduced price policy statement and Claims for Reimbursement.

### 3. **Control of the School Food Service Account and Overall Financial Responsibility**

- \_\_\_\_\_ a. **§210.16(a)(4)**-retain control of the nonprofit school food service account and overall financial responsibility for the nonprofit food service operation; and
- \_\_\_\_\_ b. retain control for the establishment of all prices, including price adjustments, for meals served under the nonprofit school food service account, e.g., pricing for reimbursable meals, a la carte service including vending machines, and adult meals.

### 4. **USDA Donated Foods**

- \_\_\_\_\_ a. **§210.16(a)(6)**-retain title to USDA donated foods; and
- \_\_\_\_\_ b. ensure that all USDA donated foods made available to the FSMC, including processed USDA donated foods, accrue only to the benefit of the SFA's nonprofit school food service and are fully utilized therein. All refunds received from processors must be retained by the SFA.

### 5. **Quality, Extent and General Nature of Food Service**

- \_\_\_\_\_ a. **§210.16(c)(3)**-provide detailed specifications for each food component or menu item as specified in 7 CFR Part 210, and include these specifications in the IFBs or RFPs. Specifications must cover items such as grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time. (Sample menus and specifications – Appendix F and G)
- \_\_\_\_\_ b. **§210.16(a)(4)**-retain control of the quality, extent, and general nature of its food service.
- \_\_\_\_\_ c. **§210.16(c)(3)**-make no payment for meals that are spoiled or unwholesome at the time of delivery, do not meet detailed specifications or do not otherwise meet the requirements of the contract.

- \_\_\_\_\_ 6. **Health Regulations, §210.16(a)(7)**-maintain all applicable health certifications and assure that all State and local regulations are being met by a FSMC preparing or serving meals at a SFA facility.

**Section B - SFA Responsibilities  
(continued)**

**Page No.**

- \_\_\_\_\_ 7. **Monitoring Responsibilities, §210.16(a)(3)**-monitor the food service operation through periodic on-site visits to ensure the food service is in conformance with program regulations.
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- \_\_\_\_\_ 8. **Use of Advisory Board, §210.16(a)(8)**-establish and maintain an advisory board composed of parents, teachers, and students to assist in menu planning.
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- \_\_\_\_\_ 9. **21-Day Cycle Menu, §210.16(b)(1)**-include a 21-day cycle menu developed in accordance with the meal pattern requirements specified in 7 CFR Part 210. (Sample menus – Appendix F and G)



### Section C - FSMC Responsibilities

#### Page No.

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- \_\_\_\_\_ 1. **Health Certification, §210.16(c)(2)**-maintain all applicable State and/or local health certification(s) for the duration of the contract for any facility outside the school in which it proposes to prepare meals. The FSMC must meet all applicable State and local health regulations in preparing and serving meals at the SFA facility.
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- \_\_\_\_\_ 2. **21-Day Cycle Menu, §210.16(b)(1)**-adhere to the 21-day cycle menu which was included in the IFB or RFP for the first 21 days of meal service. Changes thereafter may only be made with the approval of the SFA. (Sample menus – Appendix F and G)
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- \_\_\_\_\_ 3. **Provision of Free and Reduced Price Meals, §210.16(a)**-in order to offer a la carte food service, the FSMC must also offer free, reduced price and full price reimbursable meals to all eligible children.
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- \_\_\_\_\_ 4. **USDA Donated Foods, §210.16(a)(6)**-to the maximum extent possible, utilize USDA donated foods made available by the SFA solely for the purpose of providing benefits for the SFA's food service operation.
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- 
- \_\_\_\_\_ 5. **Recordkeeping, OMB Circular No. A-102, Attachment O, paragraph 14.h, ARS §35-214(A) and §210.16(c)(1)**-maintain records to support the SFA's Claim for Reimbursement; make all records available to the SFA upon request; and retain all records for a period of five (5) years after the SFA submits the final Claim for Reimbursement for the fiscal year for inspection and audit by representatives of the SFA, ADE, USDA and Comptroller General, at any reasonable time and place. In instances where audit findings have not been resolved, the records must be retained beyond the 5-year period until resolution of the issues raised by the audit.
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- \_\_\_\_\_ 6. **Reporting, §210.16(c)(1)**-report the claim information to the SFA promptly at the end of each month or more frequently as specified by the SFA.

## Section D - General Terms - All SFA-FSMC Contracts

Page No.

1. **Contract Duration**
    - \_\_\_\_\_ a. **§210.16(d)**-contracts must be of a duration no longer than one (1) year.
    - \_\_\_\_\_ b. **§210.16(d)**-options for the yearly renewal of a contract may not exceed four (4) additional one-year extensions.
- 
- \_\_\_\_\_ 2. **Energy Policy and Conservation Act, OMB Circular No. A-102, Attachment O, paragraph 14.j**
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- \_\_\_\_\_ 3. **Termination Clause, §210.16(d)**-either party may cancel for cause with 60-day notification.
- 
- \_\_\_\_\_ 4. **Nonperformance Sanctions -OMB Circular No. A-102, Attachment O, paragraph 14.a**-provisions allowing for administrative, contractual, or legal remedies in instances where the FSMC violates or breaches contract terms, and providing for such sanctions and penalties as may be appropriate.
- 

## Section E - SFA-FSMC Contracts in Excess of \$2,500 Involving Food Service Workers Whose Duties are Manual or Physical in Nature

☐ Indicate with a check mark (✓) in the block if the following provision is not applicable.

Page No.

- \_\_\_\_\_ **Contract Work Hours and Safety Standards Act, OMB Circular No. A-102, Attachment O, paragraph 14.f**
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## Section F - SFA-FSMC Contracts in Excess of \$10,000

☐ Indicate with a check mark (✓) in the block if the following provisions are not applicable.

Page No.

- \_\_\_\_\_ 1. **Termination Clause - OMB Circular No. A-102, Attachment O, paragraph 14.b**
- \_\_\_\_\_ 2. **Equal Employment Opportunity - OMB Circular No. A-102, Attachment O, paragraph 14.c**

**Section G - SFA-FSMC Contracts in Excess of \$100,000**

☐ Indicate with a check mark (✓) in the block if the following provision is not applicable.

**Date Signed**

\_\_\_\_\_ **Debarment, Suspension, Ineligibility and Voluntary Exclusion, 7 CFR 3017.510**-certification regarding debarment/suspension from participating in Federal contracts/grants/awards. A new certification is also required for each renewal period.

☐ Indicate with a check mark (✓) in the block if the following provision is not applicable.

**Date Signed**

\_\_\_\_\_ **Certification Regarding Lobbying, 7 CFR Part 3018**-a new certification is also required for each renewal period.

☐ Indicate with a check mark (✓) in the block if the following provision is not applicable.

**Date Signed**

\_\_\_\_\_ **Disclosure of Lobbying Activities, 7 CFR Part 3018**-lobbying activities in connection with school nutrition programs must be disclosed. If there are material changes after the Initial filing, updated reports must be submitted on a quarterly basis.

☐ Indicate with a check mark (✓) in the block if the following provision is not applicable.

**Page No.**

\_\_\_\_\_ **Clean Air Act, Clean Water Act, and Environmental Protection Agency Regulations, OMB Circular No. A-102, Attachment O, paragraph 14.i**

**Section H - SFA-FSMC Contracts Involving Research, Developmental,  
Experimental and Demonstration Work**

☐ Indicate with a check mark (✓) in the block if the following provision is not applicable.

**Page No.**

\_\_\_\_\_ **USDA Rights to Copyrights, Patent Rights and Rights in Data and Reporting of Discoveries and Inventions, OMB Circular No. A-102, Attachment O, paragraph 14.g**

## Section I - Unallowable SFA-FSMC Contract Document Provisions

The following indicate problem areas that have been identified in SFA-FSMC contract documents. The contract documents must be thoroughly checked, regardless of the procurement method used, to ensure that these areas have not been included, in any form. Indicate with a check mark (✓) in each block that the review of the documents indicates that there are no such provisions in the reviewed documents, unless specified below.

Check (✓) as described above.

- ☐ 1. **Cost Plus a Percentage of Cost/Income**-cost plus a percentage of cost/income to the FSMC, however represented.
- ☐ 2. **Duplicate Fees**-fee structures that permit a FSMC to bill management fees and charge the same costs as cost-reimbursable expenses.
- ☐ 3. **Purchasing**-if the SFA does the purchasing, clauses that limit the selection of vendors to only FSMC-approved vendors.
- ☐ 4. **Acceleration Clause**-provisions (multi-year) that require full payment (e.g., program equipment purchases) if the contract is not renegotiated.
- ☐ 5. **Interest Payments**-interest payments to the contractor, however represented, including interest payments for equipment purchases.
- ☐ 6. **Guaranteed Return**-"guaranteed return" provisions unless the "return" remains in the nonprofit food service account. "Returns" cannot be contingent upon multi-year contract duration.
- ☐ 7. **Delegation of SFA Responsibilities**-FSMC responsibility for any of the functions that must be retained by the SFA.
- ☐ 8. **Automatic Renewal**-provisions which automatically renew the contract.
- ☐ 9. **Processing Contracts**-contract document language that permits the FSMC to subcontract USDA donated foods for further processing.

For the item(s) above not checked (✓), indicate item number(s) with corresponding page number(s) of documents where provision(s) appears.

| Item Number(s) | Page Number(s) |
|----------------|----------------|
| _____          | _____          |
| _____          | _____          |
| _____          | _____          |

## Section J - Advisable Inclusions

Though the items below are not regulatory in nature, they have been included to offer technical assistance to the SFA in developing contractual language that will ensure that the best interest of the SFA is served by the contract.

### Page No.

- 
- \_\_\_\_\_ 1.     **Compliance with Program Regulations**-requirement that the FSMC conduct program operations in accordance with 7 CFR Parts 210, 215, 220, 245 and 250, and FCS instructions and policy.
- 

- \_\_\_\_\_ 2.     **USDA Donated Foods**
- \_\_\_\_\_ a.     Method which delineates how the FSMC will pass the value of USDA donated foods used to the SFA.
- \_\_\_\_\_ b.     Specific statement that USDA donated foods are not to be used for special functions conducted outside the nonprofit school food service (e.g., catered meals).
- 

- \_\_\_\_\_ 3.     **Special Functions**-method which delineates the cost allocation for special functions conducted outside the nonprofit school food service. The method should demonstrate that labor costs are not being double billed for program meals and special function meals.
- 

- \_\_\_\_\_ 4.     **Fee Structure**
- \_\_\_\_\_ a.     In a cost-reimbursable contract, requirement for breakdown of administrative and management fees in order to prevent double billing.
- \_\_\_\_\_ b.     Basis for fee adjustments.
- 

- \_\_\_\_\_ 5.     **Purchasing**
- \_\_\_\_\_ a.     In a cost-reimbursable contract, if the FSMC makes purchases, the prices charged the SFA must be reasonable and necessary.
- \_\_\_\_\_ b.     A provision stating that any silence, absence or omission from the contract document specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and that only materials (food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA are to be used.
- 

- \_\_\_\_\_ 6.     **Certification of Independent Price Determination**-certification regarding non-collusion. This certification may be met through the use of the Certification of Independent Price Determination form (Appendix N).
- 

- \_\_\_\_\_ 7.     **Civil Rights Compliance**-assurance that the FSMC will conform with all civil rights requirements applicable to the SFA.
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**Section J - Advisable Inclusions  
(continued)****Page No.**

\_\_\_\_\_ **8. Buy American Provision**-compliance with the Buy American provision under 7 CFR Part 250.

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**9. Claim Liability**

\_\_\_\_\_ a. The FSMC accepts liability caused by FSMC negligence for claims assessed as a result of Federal/State reviews/audits, corresponding with the SFA's period of liability.

\_\_\_\_\_ b. The FSMC accepts liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA donated foods.

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\_\_\_\_\_ **10. Location of Records**-all FSMC records pertaining to the SFA should be maintained at the SFA while the contract is in effect, and preferably for the required retention period.

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\_\_\_\_\_ **11. Nutrition Education**-FSMC responsibility for nutrition education activities, as applicable.

## ARTICLE I INTRODUCTION

- 1.1 Date of and Parties to the Agreement. This agreement, dated \_\_\_\_\_, is between [SPONSOR NAME], hereafter called the School Food Authority (SFA), and [FOOD SERVICE MANAGEMENT COMPANY NAME] (the FSMC).
- 1.2 Purpose of Agreement. This agreement sets forth the terms and conditions upon which the SFA retains the FSMC to manage and operate the SFA's food service for the SFA's students, employees, visitors, and guests.
- 1.3 Term of the Agreement. The initial term of this agreement commences on \_\_\_\_\_, and continues until \_\_\_\_\_ [this date may be no more than one year from the date the agreement commences]. The agreement is subject to four (4) additional one-year renewals upon the consent of both parties, unless terminated earlier as provided in the Article concerning General Terms and Conditions. 7 CFR § 210.16 (d)

## ARTICLE II RELATIONSHIP OF THE PARTIES

- 2.1 Limited Agency. The SFA retains the FSMC as the exclusive agent to purchase food and manage the daily operations of the SFA's food service program as described in this agreement.
- 2.2 Responsibilities of Agent.
  - A. As agent, the FSMC shall prepare and serve a variety of high quality, wholesome, and nutritious food and beverages for students, faculty, staff, employees, and others as designated by the SFA in accordance with the terms and conditions of this agreement.
  - B. The FSMC agrees that it will perform the work described in this agreement in full compliance with all applicable laws, rules, and regulations adopted or promulgated by any federal or state regulatory body or governmental agency.
  - C. The FSMC agrees to meet all requirements and performance standards that may be specified by rule or regulation by any administrative officials or bodies charged with enforcement of any state or federal laws on the subject matter of this agreement.
  - D. The FSMC agrees to assume full responsibility for the payment of all contributions, assessments, both state and federal, as to all employees engaged by it in the performance of this agreement.
  - E. The FSMC agrees to furnish the SFA, upon request, a certificate or other evidence of compliance with state or federal laws regarding contributions, taxes, and assessments on payrolls.
- 2.3 Rights of Principle.
  - A. As principle, the SFA shall supervise and retain control of the FSMC's daily operation of the food service described in this agreement; retain control of the quality, extent, and general nature of the food service operation; and establish all program and non-program meal and a la carte prices. Authorized representatives of the SFA shall have access to all portions of the food service facilities at all times, and shall monitor the performance of the FSMC under this agreement through periodic on-site visits. 7 CFR § 210.16(a)(2)(3)(4).

- B. The SFA may make reasonable regulations with regard to all matters under its supervision and control, and the FSMC shall comply with them as soon as reasonably possible after proper notification is given.
- C. The SFA shall retain control of the school food service account and overall financial responsibility for the school nutrition program. 7 CFR § 210.9 (a)(1) and 210.16 (a)(4).
- D. The SFA shall retain signature authority on the Child Nutrition Program Food Services Agreement, Free and Reduced Price Policy Statement, and all claims for reimbursement. 7 CFR § 210.9(b)(8) and 210.16(a)(5).
- E. The SFA shall retain signature authority and be responsible for all contractual agreements entered into in connection with the school nutrition program. 7 CFR § 210.21.
- F. The SFA shall ensure resolution of program review and audit findings. 7 CFR § 210.9(b)(17).
- G. The SFA shall provide a 21-day cycle menu. The FSMC must adhere to the cycle menu and food specifications provided by the SFA for the first 21 days of meal service, and any changes made thereafter may be made only with approval of the SFA. 7 CFR § 210.16 (b)(1) and 210.16 (c)(3). (See Appendix \_\_, \_\_, and \_\_)
- H. The SFA shall establish an advisory board composed of parents, teachers, and students to assist in menu planning. 7 CFR § 210.16(a)(8).
- I. The SFA shall maintain applicable health certification and be assured that the FSMC is meeting all state and local regulations in preparing and serving meals at the facilities. 7 CFR § 210.16(a)(7).
- J. The SFA shall develop, distribute, and collect the parent letter and application for free and reduced price meals. 7 CFR § 245.6.
- K. The SFA shall determine eligibility and verify applications for free and reduced price meals benefits and will conduct any hearings related to such determinations. 7 CFR § 245.6, 6a, 7, 10.
- L. The SFA shall assure that the maximum amount of USDA donated foods are received and utilized by the FSMC. 7 CFR § 210.9(b)(15).
- M. The SFA shall maintain responsibility for procuring processing agreements, private storage facilities, or any other aspect of financial management relating to commodities. 7 CFR § 250.15(a).

### ARTICLE III FOOD SERVICE PROGRAM

- 3.1 Location. The FSMC shall prepare and serve meals for the schools listed in Appendix \_\_. The SFA and the FSMC may agree to add other locations.
- 3.2 Calendar. All meals will be provided in accordance with the approved calendar, attached as Appendix \_\_. For the first twenty-one (21) days of food service, FSMC will adhere to the 21-day



cycle menu agreed upon by FSMC and the SFA. Changes in the menu may later be made with approval of the SFA. 7 CFR § 210.16 (b)(1).

- 3.3 Meal Program. The FSMC shall provide nutritional, high-quality breakfasts, lunches, snacks, milk service, a la carte food, and vending items **[delete any items not applicable]** in accordance with the following terms:
- A. All reimbursable lunches, breakfasts and snacks shall meet the qualifications for USDA reimbursement as described in 7 CFR § 210.10, and 220.8 , et seq.
  - B. All full lunches, breakfasts and snacks served under the Summer Food Service Program shall meet the qualifications for USDA Reimbursement as described in 7 CFR § 225. **[delete if not applicable]**
  - C. All reimbursable milks shall meet the qualifications for USDA reimbursement under the Special Milk Program as described in 7 CFR § 215. **[delete if not applicable]**
  - D. The SFA shall administer the application process for all free and reduced price meals, and shall establish and notify parents and guardians of program criteria for eligible students. Both the SFA and the FSMC shall be responsible for protecting the anonymity of students receiving free or reduced price meals. 7 CFR § 210.16 (a)(5).
  - E. The FSMC shall collect gross sale receipts, on behalf of the SFA, for cash-paid meals, a la carte items, and vending items. Gross cash receipts shall be turned over daily to the SFA.
- 3.4 Nutrition Awareness Programs. In cooperation with the SFA, the FSMC shall conduct on-going nutrition awareness programs for students, teachers, parents, and other interested parties.
- 3.5 Special Diets. The FSMC shall supply special diets for students where medically necessary and when prescribed and approved in writing by the SFA and a licensed physician.
- 3.6 Food Committee and Advisory Board. The FSMC shall cooperate with the SFA's Food Service Advisory Committee, consisting of students, parents, and SFA staff in developing menus and other food service programs.
- 3.7 Catering. Upon request by the SFA, the FSMC shall provide catered food service at times and prices mutually agreed upon **[delete if not applicable]**. For all SFA sponsored and third party functions catered by the FSMC, the FSMC shall prepare and submit prenumbered invoices to appropriate administrators of the SFA and representatives of third party organizations, which shall pay the SFA directly. Such invoices will be submitted by the FSMC by the end of the current month. Any invoice payments received by the FSMC shall be immediately delivered to the SFA's Accounting Department. Costs of catered functions shall not be supported by the nonprofit foodservice account funds. The SFA shall be responsible for collecting amounts due on food service accounts receivable invoices. The FSMC shall provide the SFA with copies of invoices and an invoice control log within ten (10) days after the end of each month.
- 3.8 Environmental Protection Agency Compliance. In performance of this agreement, the FSMC shall comply with Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 117389, and EPA Regulations 40 CFR Part 15, et seq. Environmental violations shall be reported to the United States Department of Agriculture and US EPA Assistant Administrator for Enforcement, and the FSMC agrees not to utilize a facility listed on the EPA's "List of Violating Facilities." OMB Circular No. A-102, Attachment O, paragraph 14.i.
- 3.9 Energy Policy and Conservation Act Compliance. The SFA and the FSMC shall recognize mandatory standards and policies relating to energy efficiency which are contained in the state

conservation plan issued in compliance with the Energy Policy and Conservation Act. OMB Circular No. A-102, Attachment O, paragraph 14.j.

- 3.10 Contract Work Hours and Safety Standards Act Compliance. In performance of this agreement, and as employer for all management food service employees, the FSMC shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act. OMB Circular No. A-102, Attachment O, paragraph 14.f.
- 3.11 Debarment Certification. The FSMC shall complete and submit to the SFA the US Department of Agriculture Certification Regarding Debarment. The certification must accompany the four (4) additional one-year renewals. 7 CFR § 3017.510.
- 3.12 Lobbying. Pursuant to section 1352, Title 31, US Code, the FSMC shall complete and submit a Certificate Regarding Lobbying and a Disclosure of Lobbying Activities to the SFA. 7 CFR § 3018.

#### ARTICLE IV MANAGEMENT AND PERSONNEL

- 4.1 FSMC Management and Professional Employees. The FSMC shall provide sufficient and qualified management and professional employees to manage the food service operations and supervise all employees employed therein.
- 4.2 Non-Management Employees. All non-management food service employees shall be employees of the SFA. The FSMC managers shall direct and supervise SFA food service employees.
- 4.3 Student Workers. **[delete if not applicable]** The SFA has a policy of providing work experience for its students as part of the educational curriculum. In furtherance of that policy, the SFA may assign students for work in the food service operation in such numbers as are agreed upon between the SFA and the FSMC.
- 4.4 Payroll and Taxes. The FSMC shall prepare and process the payroll for and shall pay its employees directly. The FSMC further warrants that it shall withhold or pay as appropriate all applicable federal and state employment taxes and payroll insurance with respect to its employees, specifically including any income, social security, and unemployment taxes and workers' compensation payments.
- 4.5 Workers' Compensation Insurance. The FSMC shall procure Workers' Compensation Insurance or shall maintain a system of self-insurance in conformance with applicable state law covering its employees and shall provide proof of such coverage or system to the SFA.
- 4.6 Nondiscrimination. Neither the SFA nor the FSMC shall, unless otherwise made inapplicable by law, discriminate on the basis of race, color, gender, religion, sex, age, national origin, disability, political beliefs, sexual orientation, or marital or family status, or status as a Vietnam veteran, as defined by applicable federal, state, and local law, in the recruitment, selection, training, utilization, promotion, termination, or other employment related activities concerning food service personnel.
- 4.7 Fingerprinting Requirements. The FSMC shall be responsible for obtaining any necessary fingerprint clearances for its employees as required by law. The FSMC shall provide all necessary forms and/or documentation for such employees to the SFA. A.R.S. § 15-512-13.

#### ARTICLE V INVENTORIES, FACILITIES, EQUIPMENT, AND MAINTENANCE

- 5.1 Inventories of Food and Supplies. Prior to the commencement of the term of this agreement, the existing food and operational supplies shall be delivered without charge to the FSMC for the performance of this agreement. The cost of food and operational supplies ordered by FSMC on

behalf of the SFA in performance of this agreement shall be paid for by the FSMC and the FSMC shall then be reimbursed for those costs incurred. The inventory of food and operational supplies shall remain the SFA's property. These purchases must be made using the same competitive procurement procedures applicable to the SFA.

- 5.2 Smallwares. The SFA shall furnish the necessary smallwares, including trays, dishes, glassware, flatware, serving utensils, and the like.
- 5.3 Office Facilities. The SFA shall provide, without cost to the FSMC, suitable office facilities, including furniture and equipment, for use by the FSMC in performance of this agreement. The FSMC shall take reasonable care of the office facilities and equipment, and shall return them to the SFA in good condition upon termination of this agreement, ordinary wear and tear excepted.
- 5.4 Sanitation. The FSMC shall be responsible for usual and customary cleaning and sanitation of the SFA's food service facilities.
- A. The FSMC shall be responsible for housekeeping and sanitation in areas used for food preparation, storage, and service, and shall clean and sanitize dishes, pots, pans, utensils, equipment, and similar items.
  - B. The SFA shall be responsible for the required cleaning and maintenance of dining areas and snack bar seating areas beyond the front edge of the serving lines, as well as periodic cleaning of all ceilings, ceiling fixtures, air ducts, and hood vent systems (as per local ordinance). The SFA shall also provide and maintain adequate fire extinguishing equipment for food service areas, provide necessary pest control, and shall be responsible for the removal of refuse from refuse collection centers.
  - C. If the SFA is unable to perform any of its responsibilities described in subparagraph B above, the FSMC shall temporarily assume those responsibilities and shall bill the SFA for any costs incurred.
  - D. The FSMC shall be responsible for complying with all applicable federal, state, and municipal laws related to food preparation and sanitation and all rules and regulations promulgated thereunder. The SFA shall be responsible for compliance relating to structural and equipment matters. 7 CFR § 210.16 (c) (2).
- 5.5 Maintenance. The SFA shall provide, at the SFA's expense, maintenance personnel and outside maintenance services, parts, and supplies required to properly maintain the food service facilities and equipment. If the FSMC is required by an outside maintenance service to make payment at the time of service, the SFA shall reimburse the FSMC for such payments made.
- 5.6 Condition of Facilities and Equipment. The SFA shall obtain necessary health permits and certification for its facilities. The premises and equipment provided by each party in performance of this agreement shall comply with all applicable building, safety, sanitation, and health laws; and shall satisfy all permit requirements, ordinances, rules, and regulations, including the federal Occupational Health and Safety Act of 1970 or applicable state act and standards promulgated thereunder. FSMC shall take reasonable and proper care of all premises and equipment in its custody and control and shall use them in a manner that will not cause violation of applicable laws, ordinances, rules, and regulations, including any reporting and record-keeping requirements. If at any time the FSMC is notified by an authorized government agency that the SFA's premises or equipment are not in compliance with any law, ordinance, rule, or regulation, the FSMC shall immediately inform the SFA of such notification.

- 5.7 Transportation Equipment and Vehicle. The SFA shall provide transportation vehicles and equipment to be used in the food service program. Maintenance, fuel, insurance, and equipment for transportation shall be the responsibility of the SFA. **[delete if not applicable]**
- 5.8 Nonconforming Facilities and Equipment. Each party shall, at no cost to the other, make all repairs, alterations, modifications, or replacements which may be necessary to correct any conditions of premises or owned equipment which violate applicable building, sanitation, health, or safety law, ordinance, rule or regulation.

## ARTICLE VI FINANCIAL AND PAYMENT TERMS

- 6.1 Billing for Reimbursements, Commissions, and Management Fee. The FSMC shall submit supporting documents and invoice the SFA monthly for the following direct, actual costs and management fees:
- A. The actual and direct costs for the wages, taxes, and benefits of the food service director and other management employees on the FSMC's payroll.
  - B. Direct operating costs paid by the FSMC arising from performance of this agreement. Direct operating costs are defined as:
    - Food and supply purchases by the FSMC necessary to perform this agreement
    - Food service program travel and mileage costs incurred
    - Advertising and promotions within the SFA
    - The FSMC's insurance necessary for performance of this agreement **[delete if not included as part of the bidding/proposal process]**
    - Service business and occupation tax
    - Employee training and development costs
    - Laundry, linen, and uniforms
    - Licenses and permits for performance of this agreement
    - Commodity delivery charges and storage rental
  - C. Plus, a per meal charge for all meal and meal equivalents based upon the following scale for FSMC's management fee:

|                   |                 |
|-------------------|-----------------|
| Number of Meals   | Charge per Meal |
| 0 to XXX,XXX      | \$.0XXX         |
| XXX,XXX and above | \$.0XXX         |
  - D. Per Meal Defined:
    - For management fee purposes, each reimbursable lunch shall be considered one (1) meal/meal equivalent, each reimbursable breakfast shall be considered one-half (1/2) of a meal/meal equivalent, and one reimbursable snack shall be considered one-fourth (1/4) of a meal/meal equivalent.
    - For management fee purposes, the number of meal equivalents shall be determined by dividing the total of all sales except reimbursable meal sales (including cash for adult meals, a la carte meals, and snack bar sales) by the free reimbursement rate plus the per meal value of commodities of the current school year.
  - E. A per month charge of XXX thousand, XXX hundred and XX dollars (\$X,XXX.00), twelve (12) months per year for the FSMC's General and Administrative costs incurred. The following functions are the FSMC's responsibility, and will be included in such fees:
    - Corporate supervision
    - Financial reporting and analysis

- Field auditing
- Marketing Assistance
- Purchasing administration

F. Expenses paid by the FSMC and not charged to the SFA or the food service operation and are unallowable include:

- Reports filed to the State
- Corporate income tax

- 6.2 Invoice Due Date. Invoices submitted to the SFA by the FSMC will be paid according to the SFA's "Accounts Payable Cut-Off Schedule," attached as Appendix \_\_\_\_\_. If invoices are received in the SFA's Accounting Department by the cut-off date, and they pass audit, payment will be made on the release date listed on the schedule. The FSMC will be notified immediately of any invoice that does not pass audit. The SFA shall pay all amounts when due, but if the SFA does not make a payment when due, no interest shall be charged by the FSMC on that past due receivable, pursuant to 7 CFR § 210.16(c).
- 6.3 Break-Even Guarantee. The SFA and the FSMC shall work together to ensure a financially sound and well-run operation. The FSMC shall guarantee that the food service program will achieve financial break-even, defined as "generated program revenues will be sufficient to cover all actual and direct operating costs incurred." Actual and direct operating costs are as described in paragraphs 6.1 A - E above.
- 6.4 Taxes. If during the term of this agreement any taxes are added or deleted, or there is a revision of an existing law or regulation such that the responsibility for any tax is shifted or altered, any of which results in increased or decreased costs to the FSMC, then the financial terms of this agreement shall be adjusted to reflect the change in cost retroactive to the commencement of the change. The obligations described in this paragraph shall survive any termination of this agreement, and will continue until the applicable statute of limitations, including legal extensions, has expired. The SFA and the FSMC shall agree to remain responsible for any:
- liability or assessment, including related interest and penalties, resulting from a tax responsibility of that party, and
  - reasonable collection expense, attorney's fees, and costs incurred in connection with the collection of any such amount from that party.
- Nothing herein is intended to absolve the FSMC from payment of city, state, or federal income taxes.
- 6.5 Operating Statements. The FSMC shall submit monthly operating statements to the SFA by the fifteenth (15th) of the next month. This statement shall reflect all activity for the previous calendar month.
- 6.6 Inspection of Books and Records. The books and records of the FSMC pertaining to operations under this agreement shall be available to the SFA at any reasonable time. The FSMC shall maintain such records, for a period of not less than five (5) years after the final day of the contract, or longer if required for audit resolution. A.R.S. § 35-214, 215.
- 6.7 Renegotiation of Financial Terms. The renegotiation of price terms under this agreement is permitted only upon the occurrence of unpredictable, unexpected conditions beyond the control of the parties. If those conditions create a significant and material change in the financial assumptions upon which the price terms of this agreement are based, then those price terms so affected may be renegotiated by the parties. Renegotiation of price terms under such conditions must be mutual, and any changes in price terms must be agreed upon by both parties. Any adjustments so negotiated and agreed upon must accurately reflect the change in conditions. The occurrence of contingencies that are foreseeable and predictable, but not certain, should be calculated into the defined price terms to the extent possible, with the goal of minimizing the need for renegotiation of price terms during the term of the agreement.

- 6.8 Availability of Funds. Every payment obligation of the SFA under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the SFA at the end of the period for which funds are available. No liability shall accrue to the SFA in the event this provision is exercised, and the SFA shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

## ARTICLE VII GENERAL TERMS AND CONDITIONS

- 7.1 Compliance With Law. The FSMC shall comply with all laws, ordinances, rules, and regulations of all applicable federal, state, county, and city governments, bureaus, and agencies, regarding purchasing, sanitation, health, and safety of the food service operations. The FSMC will comply with all requirements of the National School Lunch Program and the School Breakfast Program **[delete if not applicable]** and shall procure and maintain all necessary licenses and permits. The SFA shall cooperate, as necessary, for the FSMC's compliance and procurement efforts.
- 7.2 National School Lunch Program. In order to assist the SFA's participation in the National School Lunch Program:
- A. Any federally donated commodities received by the SFA and made available to the FSMC shall be used only for the benefit of the SFA's food service operation. Any commodity processing contracts shall be established by the SFA. All goods, services, and monies received as a result of rebate under a processing contract must be used in the SFA's nonprofit food service. 7 CFR § 210.16 (a)(6). The FSMC shall maintain a perpetual inventory record of donated commodities.
  - B. No payment shall be made for meals or snacks that are spoiled or unwholesome at the time of service, or do not meet specifications developed by the SFA, or do not otherwise meet the requirements of this agreement. No deduction in payment shall be made by the SFA unless the SFA notifies the FSMC in writing within 48 hours of the meal service for which the deduction is to be made, specifying the number of meals for which a deduction is to be made and describing the reasons for the deduction. 7 CFR § 210.16 (c)(3).
  - C. The FSMC shall maintain such records, for a period of not less than five (5) years after the final day of the contract, or longer if required for audit resolutions, as are needed by the SFA to support its claims for federal and state reimbursements. The FSMC shall submit to the SFA a monthly meal reimbursement claim report for the SFA to submit to the Arizona Department of Education.
  - D. The FSMC shall make available, as required by state and federal regulations, all books and records pertaining to food service operations. These records are subject to inspection or audit by representatives of the SFA, State Agency, the US Department of Agriculture, and the US General Accounting Office at any reasonable time and place.
- 7.3 Comprehensive Insurance. The FSMC shall obtain and keep in force during this agreement, for the protection of the SFA and the FSMC, Comprehensive General Bodily Injury and Property Damage Liability Insurance in the combined single limit of no less than five million dollars (\$5,000,000). That insurance shall include, but not be limited to, Personal Injury Liability, Broad Form Property Damage Liability, Blanket Contractual Liability, and Products Liability, covering only the operations of the FSMC under this agreement, and shall deliver to the SFA a certificate evidencing such policies and coverage within thirty (30) days after the execution of this agreement by the parties. The insurance

policies shall contain a covenant by the issuing company that the policies will not be canceled unless a thirty (30) day prior written notice of cancellation is given to the SFA. The policies for \$5,000,000 coverage shall also name the SFA as an Additional Insured, but only with respect to operations of the FSMC under this agreement. **[delete if not included as part of the bidding/proposal process]**

- 7.4 Waiver of Insurance Subrogation. Neither party has any obligation or responsibility for loss or damage to the other's real or personal property that is caused by fire, extended coverage perils, vandalism, or malicious mischief. The parties waive all rights of recovery against each other for loss or damage to the waiving party occasioned by any such peril insured against under any policies insuring the waiving party's real or personal property.
- 7.5 Indemnity. Unless otherwise expressly provided, the SFA and the FSMC shall remain responsible for all claims, liability, loss, and expense, including reasonable costs, collection expenses, and attorney's fees incurred, which arise by reasons of negligent or wrongful act or omission of the party, its agents, or its employees in the performance of its obligations under this agreement.
- 7.6 Trade Secrets. The FSMC shall designate any information it considers confidential or proprietary, including recipes, surveys and studies, management guidelines, operating manuals, and similar documents which it regularly uses in the operation of the FSMC's business or which it develops independently during the course of this agreement. Information so designated and identified shall be treated as confidential by the SFA, and the SFA shall exercise the same level of care in maintaining the confidences of the FSMC as it would employ in maintaining its own confidences. All such recipes, files, records, compilations, manuals, and similar items shall remain the exclusive property of the FSMC and shall be returned to the FSMC immediately upon termination of this agreement. The SFA shall have no right to the use trademarks, service marks, copyrights, or trade names of the FSMC following termination of this agreement. The FSMC shall remove all evidence of its trade names and registered trademarks within thirty (30) days after termination of this agreement.

Similarly, the SFA shall designate any information it considers confidential or proprietary, including recipes, surveys and studies, management guidelines, operating manuals, and similar documents that it regularly uses in its operations or which it develops in the course of this contract. Information so designated and identified shall be treated as confidential by the FSMC, and the FSMC shall exercise the same level of care in maintaining the confidences of the SFA as it would employ in maintaining its own confidences. All such recipes, files, records, compilations, manuals, and similar items shall remain the exclusive property of the SFA and shall be returned to the SFA immediately upon termination of this agreement. The FSMC shall have no right to the use trademarks, service marks, copyrights, or trade names of the SFA following termination of this agreement.

The FSMC shall retain copyright rights to any recipes, surveys and studies, management guidelines, operating manuals, and similar documents, that are developed pursuant to this agreement at the request of or through the funding provided by the SFA. Notwithstanding, the SFA shall retain royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for government purposes any such information and documents. 7 CFR § 3016.34.

- 7.7 Assignment. This agreement may not be assigned by either party, in whole or in part, without the written consent of the other party.
- 7.8 Notice. Any notice or communication required or permitted under this agreement shall be in writing and shall be served personally or sent by US registered or certified mail, postage prepaid and return receipt requested, addressed to the other party as follows:

Notices to the SFA:  
Sample SFA  
123 Sample Avenue  
Sample Town, AZ 00000-0000

Notices to the FSMC:

Sample Food Service Management Company  
123 Sample Street  
Sample Town, State 11111-1111

Other persons or places may also be designated, in writing, by either of the parties, during the term of this agreement. Notices shall be effective when received. Sent notices will be considered received forty-eight (48) hours after they are deposited in the US mail.

- 7.9 Attorney's Fees. If any action or proceeding is necessary to enforce the provisions of this agreement, including any claim or demand, or to interpret this agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which it may otherwise be entitled, whether or not such action or proceeding is prosecuted to judgment.
- 7.10 Catastrophe. With the exception of payment obligations for prior performance under this agreement, neither party shall be liable for the failure to perform their respective obligations under this agreement when such failure is caused by fire, explosion, water, act of God or inevitable accident, civil disorder, strikes, vandalism, war, riot, sabotage, weather and energy related closings, or other like causes beyond the reasonable control of the party, nor for any real or personal property destroyed or damaged due to such causes. The FSMC shall resume food service operations as soon as possible.
- 7.11 Termination. If either party fails to comply with any of the obligations required of it in this agreement and, following receipt of written notice specifying that failure, fails to remedy such failure within a reasonable time not to exceed sixty (60) days, then the other party shall have the right to terminate this agreement immediately upon giving written notice of that intention. 7 CFR § 210.16 (d).
- 7.12 Cure Period. In either case, if a cure or remedy is found for the termination request by mutual agreement of the contracting parties, the termination or non-renewal letter must be withdrawn in writing by the terminating party within the sixty (60) day period as described in paragraph 7.11 above. This letter should be counter-signed by the receiving party and the letter should become an amendment to this agreement.
- 7.13 Non-Renewal Notice. The SFA and the FSMC shall give no less than sixty (60) days written notice of the intention to renew this agreement.
- 7.14 Rights Beyond Termination. The right of termination referred to in this agreement is not intended to be exclusive, and is in addition to any other rights available to either party at law or in equity.
- 7.15 Construction and Effect. A waiver of any failure under this agreement shall neither be construed as, nor constitute a waiver of, any subsequent failure. This agreement supersedes all prior negotiations, representations, or agreements. The Article and Paragraph headings are used solely for convenience and shall not be deemed to limit the subject of the Articles and Paragraphs or be considered in their interpretation. The appendixes referred to herein are made part of this agreement by the respective references to them. This agreement may be executed in several counterparts, each of which shall be deemed an original.
- 7.16 Amendments to the Agreement. The parties cannot alter any provision in this agreement that is required by any law, rule or regulation. The parties cannot otherwise amend or alter this agreement, except as to minor, non-substantive provisions or issues that do not materially affect the scope of work or the cost of the agreement. The parties must mutually agree, in a written document signed by both parties and attached to this agreement, to amend, add, or delete an Article or Appendix. Any amendment to this agreement shall become effective at the time specified in the amendment.



7.17 Sanctions. For breach of the agreement and associated benefits:

- A. The Arizona Department of Education shall be notified immediately of termination action and reason for termination.
- B. The name of either party who has caused the breach shall be kept on record by the Arizona Department of Education for information and action if necessary when co-signing future agreements.
- C. If the FSMC causes the breach, the FSMC assumes liability for any and all damages, including excess cost to the SFA in procuring similar services, and is liable for administrative, contractual, and legal remedies as applicable.

7.18 Cancellation of Contract. Pursuant to A.R.S. § 38-511, the SFA may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the SFA if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the SFA is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. A cancellation made pursuant to this provision shall be effective when the FSMC receives written notice of the cancellation unless the notice specifies a later time.

7.19 Disputes of Contract. Disputes arising under this Contract are subject to arbitration to the extent required by A.R.S. § 12-1518.

7.20 Antitrust Violations. The FSMC assigns to the SFA any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to the FSMC toward fulfillment of this Contract.

SO AGREED:

\_\_\_\_\_  
Signature of Food Service Management Company's  
Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of School Food Authority's  
Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# 21-DAY BREAKFAST MENU

| Monday   | Tuesday   | Wednesday   | Thursday   | Friday   |
|--|---|---|--|--|
| Rice Krispy Cereal<br>Cheese Toast<br>Fresh Banana<br>Apple Juice<br><br>Milk – 1% Lowfat    | Blueberry Muffin<br>Applesauce w/ Cinnamon<br>Raisins<br>Grape Juice<br><br>Milk – 1% Lowfat          | Cheerios<br>Whole Wheat Toast w/<br>Peanut Butter<br>Fresh Grapes<br>Orange Juice<br>Milk – 1% Lowfat | Pancakes w/ Syrup<br>Sausage Links<br>Apple Juice<br><br>Milk – 1% Lowfat            | Cinnamon-Raisin Biscuit<br>Orange Smiles<br>Grape Juice<br>Jelly<br><br>Milk – 1% Lowfat                   |
| Jumbo Waffle (2) w/Syrup<br>Fresh Banana<br>Grape Juice<br><br>Milk – 1% Lowfat              | Frosted Mini Wheat Cereal<br>Cheese Toast<br>Pineapple Chunks<br>Orange Juice<br><br>Milk – 1% Lowfat | Oatmeal w/ Cinnamon<br>Whole Wheat Toast & Jelly<br>Raisins<br>Grape Juice<br><br>Milk – 1% Lowfat    | Breakfast Burrito<br>w/ Salsa<br>Fresh Grapes<br>Apple Juice<br><br>Milk – 1% Lowfat | Cheerios<br>Whole Wheat Toast w/<br>Peanut Butter<br>Fresh Banana<br>Orange Juice<br>Milk – 1% Lowfat      |
| Honey Nut Cheerios<br>Muffin Squares<br>Orange Smiles<br>Apple Juice<br><br>Milk – 1% Lowfat | Baked French Toast Strips<br>w/ Syrup<br>Peaches<br>Grape Juice<br><br>Milk – 1% Lowfat               | Bagel w/ Melted Cheese<br>Fresh Grapes<br>Orange Juice<br><br>Milk – 1% Lowfat                        | Yogurt w/ Granola<br>Fresh Apple Slices<br>Grape Juice<br><br>Milk – 1% Lowfat       | Ham & Egg Breakfast<br>Burrito w/ Salsa<br>Hash Browns<br>Orange Smiles<br>Apple Juice<br>Milk – 1% Lowfat |
| Sausage & Biscuit<br>Orange Smiles<br>Apple Juice<br><br>Milk – 1% Lowfat                    | Cornflakes Cereal<br>Whole Wheat Toast & Jelly<br>Banana<br>Grape Juice<br>Milk – 1% Lowfat           | Jumbo Waffle (2) w/Syrup<br>Pineapple Chunks<br>Orange Juice<br><br>Milk – 1% Lowfat                  | Pancakes (2) w/Syrup<br>Fresh Apple Slices<br>Grape Juice<br><br>Milk – 1% Lowfat    | Golden Grahams Cereal<br>Whole Wheat Toast & Jelly<br>Canned Peaches<br>Apple Juice<br>Milk – 1% Lowfat    |
| Rice Krispy Cereal<br>Cheese Toast<br>Grapes<br>Orange Juice<br>Milk – 1% Lowfat             |   |   |  |  |

## 21-Day Breakfast Menu Week 1

| Day       | Menu  | Portions   | USDA Recipe Number |
|-----------|---|--|--------------------|
| Monday    | Rice Krispy Cereal<br>Cheese Toast<br><br>Fresh Banana<br>Apple Juice<br>Milk – 1% Lowfat             | $\frac{3}{4}$ cup<br>1 slice whole wheat bread<br>1 oz mozzarella, part skim<br>1 each<br>4 fl oz<br>half pint |                    |
| Tuesday   | Blueberry Muffin<br>Applesauce<br>w/ Cinnamon<br>Raisins<br>Grape Juice<br>Milk – 1% Lowfat           | 3.6 oz (2 bread servings)<br>$\frac{1}{2}$ cup<br>1 tsp.<br>$\frac{1}{4}$ cup<br>4 fl oz<br>half pint          |                    |
| Wednesday | Cheerios<br>Whole Wheat Toast w/<br>Peanut Butter<br>Fresh Grapes<br>Orange Juice<br>Milk – 1% Lowfat | $\frac{3}{4}$ cup<br>1 slice<br>1 oz<br>$\frac{1}{2}$ cup<br>4 fl oz<br>half pint                              |                    |
| Thursday  | Pancakes*<br>w/ Syrup<br>Sausage Links<br>Apple Juice<br>Milk – 1% Lowfat                             | 2 each<br>1 oz<br>1 oz<br>4 fl oz<br>half pint   | B-13               |
| Friday    | Cinnamon-Raisin Biscuit<br>Orange Smiles (Slices)<br>Grape Juice<br>Jelly<br>Milk – 1% Lowfat         | 2 oz<br>$\frac{1}{2}$ orange each<br>4 fl oz<br>1 Tbsp.<br>half pint   |                    |

## 21-Day Breakfast Menu Week 2

| Day       | Menu   | Portions   | USDA Recipe Number |
|-----------|--|--|--------------------|
| Monday    | Jumbo Waffle (2)<br>w/Syrup<br>Fresh Banana<br>Grape Juice<br>Milk – 1% Lowfat                               | 1.25 oz each, 2.5 oz total<br>2 oz<br>1 each<br>4 fl oz<br>half pint   |                    |
| Tuesday   | Frosted Mini Wheat Cereal<br>Cheese Toast<br><br>Pineapple Chunks<br>Orange Juice<br>Milk – 1% Lowfat        | $\frac{3}{4}$ cup<br>1 slice whole-wheat bread<br>1 oz cheddar, red-fat<br>$\frac{1}{2}$ cup<br>4 fl oz<br>half pint |                    |
| Wednesday | Oatmeal<br>w/Cinnamon<br>Whole Wheat Toast<br>& Jelly<br>Raisins<br>Grape Juice<br>Milk – 1% Lowfat          | $\frac{1}{2}$ cup<br>1 tsp.<br>1 slice<br>1 Tbsp.<br>$\frac{1}{4}$ cup<br>4 fl oz<br>half pint                       |                    |
| Thursday  | Breakfast Burrito*<br>w/ Salsa<br>Fresh Grapes<br>Apple Juice<br>Milk – 1% Lowfat                            | 1 burrito<br>1 oz<br>$\frac{1}{4}$ cup<br>4 fl oz<br><br>half pint   | J-2                |
| Friday    | Cheerios<br>Whole Wheat Toast w/<br>Peanut Butter<br><i>Fresh Banana</i><br>Orange Juice<br>Milk – 1% Lowfat | $\frac{3}{4}$ cup<br>1 slice<br>1 oz<br>1 each<br>4 fl oz<br>half pint   |                    |

## 21-Day Breakfast Menu Week 3

| Day       | Menu  | Portions  | USDA Recipe Number |
|-----------|---|---|--------------------|
| Monday    | Honey Nut Cheerios<br>Muffin Squares*<br>Orange Smiles (Slices)<br>Apple Juice<br>Milk – 1% Lowfat                      | $\frac{3}{4}$ cup<br>1 each<br>$\frac{1}{2}$ orange each<br>4 fl oz<br>half pint                | B-12               |
| Tuesday   | Baked French Toast<br>Strips*<br>w/ Syrup<br>Peaches<br>Grape Juice<br>Milk – 1% Lowfat                                 | 2 pieces<br><br>1 oz<br>$\frac{1}{2}$ cup<br>4 fl oz<br>half pint                               | J-3                |
| Wednesday | Bagel<br>w/ Melted Cheese<br>Fresh Grapes<br>Orange Juice<br>Milk – 1% Lowfat   | 1 serving (25 grams)<br>1 oz cheddar, red-fat<br>$\frac{1}{2}$ cup<br>4 fl oz<br>half pint      |                    |
| Thursday  | Yogurt<br>w/ Granola*<br>Fresh Apple Slices<br>Grape Juice<br>Milk – 1% Lowfat  | 8 oz<br>$\frac{1}{4}$ cup<br>$\frac{1}{2}$ apple each<br>4 fl oz<br>half pint                   | J-1                |
| Friday    | Ham & Egg Breakfast<br>Burrito*<br>w/ Salsa<br>Hash Browns<br>Orange Smiles (Slices)<br>Apple Juice<br>Milk – 1% Lowfat | 1 burrito<br><br>1 oz<br>$\frac{1}{4}$ cup<br>$\frac{1}{2}$ orange each<br>4 fl oz<br>half pint |                    |

## 21-Day Breakfast Menu Week 4

| Day       | Menu   | Portions  | USDA Recipe Number |
|-----------|--|---|--------------------|
| Monday    | Sausage<br>& Biscuit*<br>Orange Smiles (Slices)<br>Apple Juice<br>Milk – 1% Lowfat                         | 1 oz<br>1 each<br>½ orange each<br>4 fl oz<br>half pint             | B-4                |
| Tuesday   | Cornflakes Cereal<br>Whole Wheat Toast<br>& Jelly<br>Banana<br>Grape Juice<br>Milk – 1% Lowfat             | ¾ cup<br>1 slice<br>1 Tbsp.<br>1 each<br>4 fl oz<br>half pint       |                    |
| Wednesday | Jumbo Waffle (2)<br>w/Syrup<br>Pineapple Chunks<br>Orange Juice<br>Milk – 1% Lowfat                        | 1.25 oz each, 2.5 oz total<br>2 oz<br>½ cup<br>4 fl oz<br>half pint |                    |
| Thursday  | Pancakes (2)<br>w/Syrup<br>Fresh Apple Slices<br>Grape Juice<br>Milk – 1% Lowfat                           | 2 each<br>1 oz<br>½ apple each<br>4 fl oz<br>half pint              | B-13               |
| Friday    | Golden Grahams Cereal<br>Whole Wheat Toast<br>& Jelly<br>Canned Peaches<br>Apple Juice<br>Milk – 1% Lowfat | ¾ cup<br>1 slice<br>1 Tbsp.<br>½ cup<br>4 fl oz<br>half pint        |                    |

## 21-Day Breakfast Menu Week 5

| Day       | Menu   | Portions  | USDA Recipe Number |
|-----------|--|---|--------------------|
| Monday    | Rice Krispy Cereal<br>Cheese Toast<br><br>Grapes<br>Orange Juice<br>Milk – 1% Lowfat | $\frac{3}{4}$ cup<br>1 slice whole wheat bread<br>1 oz cheddar cheese, red-fat<br>$\frac{1}{2}$ cup<br>4 fl oz<br>half pint |                    |
| Tuesday   |  |   |                    |
| Wednesday |  |   |                    |
| Thursday  |  |   |                    |
| Friday    |  |   |                    |

# 21-DAY LUNCH MENU

| Monday   | Tuesday   | Wednesday   | Thursday  | Friday   |
|--|---|---|---|--|
| Chicken Pattie on a Bun<br>Lettuce & Tomato<br>Mustard<br>Carrot & Celery Sticks<br>Canned Pears<br><br>Milk<br>1% Chocolate<br>1% Lowfat                              | Nachos with Ground Beef<br>Shredded Lettuce & Diced Tomato<br>Salsa<br>Mixed Vegetables<br>Corn Muffin<br><br>Milk<br>1% Chocolate<br>1% Lowfat | Spaghetti with Marinara<br>Hot Cheese Bread<br>Tossed Salad w/ Ranch<br>Fruit Cocktail<br>Chocoleana Cake<br><br>Milk<br>1% Chocolate<br>1% Lowfat      | Pinto Beans w/ Shredded Cheese<br>Tortilla Chips & Salsa<br>Corn Muffin<br>Fresh Grapes<br><br>Milk<br>1% Chocolate<br>1% Lowfat              | Hamburger on a Bun<br>Lettuce & Tomato<br>Ketchup & Mustard<br>Mexicali Corn<br>Fresh Apple Slices<br>Royal Brownie<br><br>Milk<br>1% Chocolate<br>1% Lowfat |
| Chicken Tomato Bake<br>Peas & Carrots<br>Fresh Orange Slices<br>Chocolate Chip Cookie<br><br>Milk<br>1% Chocolate<br>1% Lowfat   | Corn Dog<br>Carrot & Celery Sticks<br>Fresh Grapes<br>Royal Brownie<br><br>Milk<br>1% Chocolate<br>1% Lowfat                                    | Beef Taco<br>Salsa<br>Refried Beans<br>Spanish Rice<br>Canned Peaches<br><br>Milk<br>1% Chocolate<br>1% Lowfat  | Grilled Cheese Sandwich<br>Tossed Salad w/ Ranch<br>Chilled Applesauce<br>Marinated Black Bean Salad<br><br>Milk<br>1% Chocolate<br>1% Lowfat | Chicken Nuggets w/ BBQ Sauce<br>Breadsticks<br>Oven Baked French Fries<br>Pineapple Chunks<br>Ketchup<br><br>Milk<br>1% Chocolate<br>1% Lowfat               |
| Hamburger on a Bun<br>Lettuce & Tomato<br>Ketchup & Mustard<br>Oven Baked French Fries<br>Fresh Apple Slices<br>Peach Cobbler<br><br>Milk<br>1% Chocolate<br>1% Lowfat | Beef Tostada<br>Refried Beans<br>Spanish Rice<br>Fresh Oranges Slices<br><br>Milk<br>1% Chocolate<br>1% Lowfat                                  | Chicken Nuggets w/ BBQ Sauce<br>Fresh Wheat Roll<br>Carrot Sticks<br>Canned Pears<br><br>Milk<br>1% Chocolate<br>1% Lowfat                              | Cheese Pizza<br>Tossed Salad w/ Ranch<br>Fresh Grapes<br>Breadsticks<br><br>Milk<br>1% Chocolate<br>1% Lowfat                                 | Macaroni and Cheese<br>Tossed Salad w/ Ranch<br>Fruit Cocktail<br>Blueberry Muffin<br><br>Milk<br>1% Chocolate<br>1% Lowfat                                  |
| Spaghetti with Meat Sauce<br>Hot Garlic Bread<br>Green Beans<br>Chocoleana Cake<br><br>Milk<br>1% Chocolate<br>1% Lowfat   | Bar B Que Beef on a Roll<br>Corn<br>Mashed Potatoes<br>Peach Cobbler<br><br>Milk<br>1% Chocolate<br>1% Lowfat                                   | Chicken Pattie on a Bun<br>Lettuce & Tomato<br>Mustard<br>Corn and Green Bean Casserole<br>Fresh Orange Slices<br><br>Milk<br>1% Chocolate<br>1% Lowfat | Chili Mac<br>Tossed Salad w/ Ranch<br>Fresh Baked Potato<br>Crackers<br><br>Milk<br>1% Chocolate<br>1% Lowfat                                 | Bean Burrito<br>Mixed Vegetables<br>Pineapple Chunks<br>Chocolate Chip Cookies<br><br>Milk<br>1% Chocolate<br>1% Lowfat                                      |
| Chicken Tetrazzini<br>Breadsticks<br>Green Beans<br>Fresh Apple<br>Peach Cobbler<br><br>Milk<br>1% Chocolate<br>1% Lowfat  |   |   |   |  |





## 21-Day Lunch Menu Week 1

| Day       | Menu   | Portions   | USDA Recipe Number |
|-----------|--|--|--------------------|
| Monday    | Chicken Pattie<br>Hamburger Bun<br>Lettuce & Tomato<br>Mustard<br>Carrot & Celery Sticks<br>Canned Pears<br>Milk<br>1% Chocolate<br>1% Lowfat                                  | 2 oz cooked meat<br>1 bread serving (25 grams)<br>1 leaf, 2 slice<br>1 packet<br>¼ cup each, ½ cup total<br>½ cup<br>half pint                                     |                    |
| Tuesday   | Nachos with Ground Beef*<br><br>Shredded Lettuce<br>Diced Tomato<br>Salsa<br>Mixed Vegetables<br>Corn Muffin<br>Milk<br>1% Chocolate<br>1% Lowfat                              | 1 serving (2 oz cooked meat,<br>1 bread serving)<br>¼ cup<br>¼ cup<br>2 oz<br>½ cup<br>1 ½ oz<br>half pint   | D-28               |
| Wednesday | Spaghetti Noodles<br>Marinara, spaghetti sauce<br>Hot Cheese Bread<br><br>Tossed Salad<br>w/ Ranch*<br>Fruit Cocktail<br>Chocoleana Cake*<br>Milk<br>1% Chocolate<br>1% Lowfat | 2 oz noodles<br>1 ¼ oz sauce<br>1 slice garlic bread<br>1 oz cheddar, red-fat<br>1 oz mozzarella, part skim<br>½ cup<br>1 Tbsp.<br>¼ cup<br>1 serving<br>half pint | E-19<br><br>C-31   |
| Thursday  | Pinto Beans<br>w/ Shredded Cheese<br>Tortilla Chips<br>& Salsa<br>Corn Muffin<br>Fresh Grapes<br>Milk<br>1% Chocolate<br>1% Lowfat   | ½ cup<br>1 oz cheddar, red-fat<br>1 oz<br>2 oz<br>1 ½ oz<br>¼ cup<br>half pint   |                    |
| Friday    | Hamburger Patty<br>Hamburger Bun<br>Lettuce & Tomato<br>Ketchup & Mustard<br>Mexicali Corn*<br>Fresh Apple Slices<br>Royal Brownie*<br>Milk<br>1% Chocolate<br>1% Lowfat       | 2 oz cooked meat<br>1 bread serving (25 grams)<br>1 leaf, 2 slices<br>1 packet each<br>½ cup<br>½ apple each<br>1 piece<br>half pint                               | I-12<br><br>C-21   |

## 21-Day Lunch Menu Week 2

| Day       | Menu   | Portions  | USDA Recipe Number                  |
|-----------|--|---|-------------------------------------|
| Monday    | Chicken Tomato Bake*<br><br>Peas & Carrots<br>Fresh Orange Slices<br>Chocolate Chip Cookies*<br>Milk<br>1% Chocolate<br>1% Lowfat                  | 2 cup (2 meat servings, ½ cup vegetable, 2 bread servings)<br>¼ cup<br>¼ orange each<br>1 cookie<br>half pint | D-41<br><br><br><br><br><br><br>C-9 |
| Tuesday   | Corn Dog<br><br>Carrot & Celery Sticks<br>Fresh Grapes<br>Royal Brownie*<br>Milk<br>1% Chocolate<br>1% Lowfat                                      | 1 each (2 meat servings, 1 bread serving)<br>¼ cup each, ½ cup total<br>½ cup<br>1 piece<br>half pint         | C-21                                |
| Wednesday | Beef Taco*<br><br>Salsa<br>Refried Beans<br>Spanish Rice*<br>Canned Peaches<br>Milk<br>1% Chocolate<br>1% Lowfat                                   | 2 each (2 oz cooked meat, ½ cup vegetable, 1 bread)<br>2 oz<br>¼ cup<br>½ cup<br>½ cup<br>half pint           | D-13<br><br><br><br><br>B-17        |
| Thursday  | Grilled Cheese Sandwich<br><br>Tossed Salad<br>w/ Ranch*<br>Chilled Applesauce<br>Marinated Black Bean Salad*<br>Milk<br>1% Chocolate<br>1% Lowfat | 2 slices white/wheat bread<br>2 oz American cheese<br>½ cup<br>1 Tbsp.<br>½ cup<br>½ cup<br>half pint         | E-19<br><br><br>E-21                |
| Friday    | Chicken Nuggets<br>w/ BBQ Sauce*<br>Breadsticks<br>Oven Baked French Fries<br>Pineapple Chunks<br>Ketchup<br>Milk<br>1% Chocolate<br>1% Lowfat     | 5 nuggets each<br>1 fl oz<br>1 each<br>1 oz<br>½ cup<br>1 packet<br>half pint                                 | G-2                                 |

## 21-Day Lunch Menu Week 3

| Day              | Menu  | Portions  | USDA Recipe Number |
|------------------|---|---|--------------------|
| <b>Monday</b>    | Hamburger Patty<br>Hamburger Bun<br>Lettuce/Tomato<br>Ketchup & Mustard<br>Oven Baked French Fries<br>Fresh Apple Slices<br>Peach Cobbler*<br>Milk<br>1% Chocolate<br>1% Lowfat | 2 oz cooked meat<br>1 bread serving (25 grams)<br>1 leaf, 2 slices<br>1 packet each<br>1 oz<br>½ apple each<br>1 serving<br>half pint | C-13               |
| <b>Tuesday</b>   | Beef Tostada*<br>Refried Beans<br>Spanish Rice*<br>Fresh Oranges Slices<br>Milk<br>1% Chocolate<br>1% Lowfat  | 2 each<br>¼ cup<br>½ cup<br>½ orange each<br>half pint  | D-13<br>B-17       |
| <b>Wednesday</b> | Chicken Nuggets<br>w/ BBQ Sauce*<br>Fresh Wheat Roll*<br>Carrot Sticks<br>Canned Pears<br>Milk<br>1% Chocolate<br>1% Lowfat   | 5 nuggets each<br>1 fl oz<br>2 oz<br>½ cup<br>½ cup<br>half pint  | G-2<br>B-16c       |
| <b>Thursday</b>  | Cheese Pizza*<br><br>Tossed Salad<br>w/ Ranch*<br>Fresh Grapes<br>Breadsticks<br>Milk<br>1% Chocolate<br>1% Lowfat  | 1 serving (2 meat servings, ¼ cup vegetable, 1 bread serving)<br>½ cup<br>1 Tbsp.<br>¼ cup<br>1 each<br>half pint                     | D-30               |
| <b>Friday</b>    | Macaroni and Cheese*<br><br>Tossed Salad<br>w/ Ranch*<br>Fruit Cocktail<br>Blueberry Muffin<br>Milk<br>1% Chocolate<br>1% Lowfat  | 16 oz (2 meat servings, 2 bread servings)<br>½ cup<br>1 Tbsp.<br>½ cup<br>1.8 oz ( 1 bread serving)<br>half pint                      | D-51<br>E-19       |

## 21-Day Lunch Menu Week 4

| Day              | Menu   | Portions  | USDA Recipe Number               |
|------------------|--|---|----------------------------------|
| <b>Monday</b>    | Spaghetti with Meat Sauce*<br>Hot Garlic Bread<br>Green Beans<br>Chocoleana Cake*<br>Milk<br>1% Chocolate<br>1% Lowfat                                       | $\frac{3}{4}$ cup (2 oz cooked meat, $\frac{3}{8}$ vegetable, 1 bread serving)<br>1 bread serving (25 grams)<br>$\frac{1}{2}$ cup<br>1 serving<br>half pint | D-35<br><br><br><br><br>C-31     |
| <b>Tuesday</b>   | Bar B Que Beef on a Roll*<br><br>Corn<br>Mashed Potatoes<br>Peach Cobbler*<br>Milk<br>1% Chocolate<br>1% Lowfat  | 1 each (2 oz cooked meat, $\frac{1}{2}$ cup vegetable, 2 bread servings)<br>$\frac{1}{4}$ cup<br>$\frac{1}{2}$ cup<br>1 serving<br>half pint                | F-2<br><br><br><br><br>C-13      |
| <b>Wednesday</b> | Chicken Pattie<br>Hamburger Bun<br>Lettuce & Tomato<br>Mustard<br>Corn and Green Bean Casserole*<br>Fresh Orange Slices<br>Milk<br>1% Chocolate<br>1% Lowfat | 2 oz cooked meat<br>1 bread serving (25 grams)<br>1 leaf, 2 slice<br>1 packet<br>$\frac{1}{2}$ cup<br><br>$\frac{1}{4}$ orange each<br>half pint            | <br><br><br><br><br><br><br>I-19 |
| <b>Thursday</b>  | Chili Mac*<br><br>Tossed Salad w/ Ranch*<br>Fresh Baked Potato<br>Crackers, Saltine<br>Milk<br>1% Chocolate<br>1% Lowfat                                     | 8 oz (2 oz cooked meat, 1 bread serving)<br>$\frac{1}{2}$ cup<br>1 Tbsp.<br>1 each<br>1 bread serving (20 grams)<br>half pint                               | D-20<br><br><br><br><br>E-19     |
| <b>Friday</b>    | Bean Burrito*<br>Mixed Vegetables<br>Pineapple Chunks<br>Chocolate Chip Cookies*<br>Milk<br>1% Chocolate<br>1% Lowfat  | 1 each<br>$\frac{1}{2}$ cup<br>$\frac{1}{4}$ cup<br>1 each<br>half pint   | D-12a<br><br><br><br>C-9         |

## 21-Day Lunch Menu Week 5

| Day       | Menu  | Portions  | USDA Recipe Number               |
|-----------|---|---|----------------------------------|
| Monday    | Chicken Tetrazzini*<br><br>Breadsticks<br>Green Beans<br>Fresh Apple<br>Peach Cobbler*<br>Milk<br>1% Chocolate<br>1% Lowfat | 6 oz (2 cooked meat, 1/8<br>vegetable, 1 bread serving)<br>1 each<br>½ cup<br>1 small apple<br>1 serving<br>half pint | D-42<br><br><br><br><br><br>C-13 |
| Tuesday   |   |   |                                  |
| Wednesday |   |   |                                  |
| Thursday  |   |   |                                  |
| Friday    |   |   |                                  |

## **Nutrient Analysis for 21-day Menus**

**SAMPLE PRODUCT DESCRIPTIONS AND SPECIFICATIONS FOR 21-DAY MENUS**

The following are examples of product descriptions and product specifications in accordance with the 21-day cycle menus provided.

B/BA = Bread/Bread Alternate. V/F = Vegetable/Fruit. M/MA = Meat/Meat Alternate.

**Fruits**

Apples, canned: sliced; to be packed to U.S. Grade C standard; solid pack; 6/10.

Apples, Fresh: to be packed to U.S. Fancy Grade standard; Red Delicious; 100 count.

Applesauce, Canned: to be packed to U.S. Grade A standard; natural color; natural flavor; unsweetened; regular form or style; 6/10.

Bananas, Fresh: regular; green tips; 100 to 120 count.

Citrus Salad Mix, Fresh Cut: mix of fresh fruit to be orange sections, pineapple and grapes; code dated; 4/1 gal.

Fruit Salad Mix, Fresh Cut: mix of fresh fruit to be cantaloupe, honey dew, pineapple and grapes; code dated; 4/1 gal.

Fruits for Salad, Canned: to be packed to U.S. Grade B standard; fruit juice packing medium; 6/10.

Fruit Cocktail, Canned: to be packed to U.S. Grade B standard; light syrup; 6/10.

Grapes, Fresh: green variety; to meet Grade standard for U.S. No. 1; 23 lb. lugs when in season, other time of year 18 lb. pack.

Juice, Frozen: apple; full strength juice; 4 fl. oz; any pack acceptable.

Juice, Frozen: grape; full strength juice; 4 fl. oz; any pack acceptable.

Juice, Frozen: orange; full strength juice; 4 fl. oz; any pack acceptable.

Oranges, Fresh: to be packed to U.S. No. 1 Grade standard; navel; size 125 or 113; 38 to 45 lbs.

Peaches, Canned: slices; to be packed to U.S. Grade B standard; clingstone; light syrup 6/10.

Pineapple, Canned: tidbits; to be packed to U.S. Grade B standard; solid pack in juice; product of Hawaii only; 6/10.

Raisins, Seedless: bulk pack; to be packed to the standard of U.S. Grade B; 30#.

Raisins, Seedless: individual pack; ¼ cup; to be packed to the standard of U.S. Grade B; 150/case.



## Grain/Bread

Animal Crackers: enriched; 25 grams minimum weight; to provide 1 serving of B/BA; individually wrapped; any pack acceptable.

Bagels, Frozen, Sliced: made from enriched flour; 2.3 oz each; 12/6.

Bagel, Fresh: sliced; 4-oz. size, whole grain variety; enriched flour; pack code date to be provided.

Biscuit, Cinnamon Raisin, Frozen: fully baked; enriched; 2.25 oz. minimum weight to provide 2 servings of G/B; any pack acceptable.

Biscuit, Frozen: fully baked; enriched; 1.8 oz. minimum weight; to provide 2 servings of G/B; any pack acceptable.

Biscuit, Frozen: raw; enriched; thaw and bake or bake from frozen; 1.8 oz. minimum cooked weight to provide 2 servings of G/B; any pack acceptable.

Bread, Loaf, Whole-grain, Fresh: loaf size 1½ lb.; 22 slices per loaf, code date provided.

Bread, Fresh; enriched; increased fiber; white; sandwich style; 1½ lb. loaf; 26 grams or .9 oz. minimum weight per slice.

Breadsticks, Frozen: enriched; fully baked; garlic and parmesan flavored; 1.5 oz. sticks equal 1.5 serving of G/B; any pack acceptable.

Bread Sticks, Frozen: enriched; fully baked; 1.5 minimum weight or signed certification to document 1.5 servings of G/B; any pack acceptable.

Bread Sticks, Frozen, raw: proof and bake; enriched; 1.5 oz. minimum weight to provide 1.5 servings of G/B; any pack acceptable.

Bun, Hamburger, White, Fresh: 4 inch; sliced; flour to be enriched; 1.8 oz. minimum weight; to provide 2 servings of G/B; pack date code to be furnished.

Bun, Hamburger, Fresh: whole grain; pre-sliced; enriched; 4 inch; 1.8 oz. minimum weight; to provide 2 servings of G/B; any pack acceptable.

Bun, Hoagie, Wheat, Fresh: sliced; seedless; 7 inch length; white flour to be enriched; packing code provided.

Cereal, Ready-To-Eat: bowl pack; ¾ cup or 1 oz.; enriched or whole grain; Required flavors listed.

Crackers, Multi-Grain: 25 grams minimum weight; to provide 1 serving of B/BA; individual wrap; any pack acceptable.

Cracker, Graham: enriched or whole grain; individual; .9 oz. minimum weight; any pack acceptable.

French Toast, Frozen: sticks; heat and serve; enriched; 2 sticks provide 1 serving of G/B; not to exceed 7 grams of fat per 2 sticks; signed certificate of G/B contribution required; any pack acceptable.

Muffins, Frozen: bran; enriched flour; fat per muffin not to exceed 5 gm; round style; 2 oz., bulk pack only; produced by commercial bakery methods in commercial bakery.

Muffins, Frozen: blueberry; enriched flour; fat per muffin not to exceed 5 gm; round style; 2 oz; bulk pack only; produced by commercial bakery methods in commercial bakery.

Muffin, Frozen: corn; enriched or whole grain; 1.1 oz. minimum weight; to provide 1 serving of G/B; any pack acceptable.

Noodles, Egg: ½ wide; 100 durum wheat semolina; enriched; 10#.

Oats, Rolled: enriched or whole grain; quick cooking; any pack acceptable.

Pancakes, Frozen: silver dollar; heat and serve; enriched; minimum weight .6 oz each; two pancakes to provide 1 serving of G/B; signed certificate of G/B contribution required; any pack acceptable.

Pasta, Macaroni, Elbow: 100% durum wheat semolina; enriched; 20#.

Pasta, Fettuccine; 100% durum wheat semolina; enriched; 20#.

Pasta, Spaghetti: made from enriched semolina and durum wheat flour; 10 inch; 20 lb. only.

Pasta, Spaghetti: thin; 100% durum wheat semolina; enriched; 20#.

Pasta, Lasagna: ridged; made from enriched semolina and durum wheat flour; 10 inch; 20 lb. only.

Pizza Crust, Frozen: par-baked; enriched; 16-oz. minimum weight; to provide 1.5 servings of B/BA per 12 cut; any pack acceptable.

Rice, Milled, Long grain: white; enriched; US Grade B; 25#.

Rice Mix, Seasoned: complete; Spanish; to contain bell peppers, tomato, herbs and spices; to yield approximately 34-1/2 cup servings per unit; any pack acceptable.

Roll, Dinner, Frozen: raw; enriched; whole wheat; 2 oz. minimum weight; to provide 2 servings of G/B; any pack acceptable.

Roll, Hoagie, Fresh: 6 inch; enriched; 2.75 oz. minimum weight; to provide 2.75 servings of B/BA; packing date to be provided; any pack acceptable.

Roll, Steak, Fresh: enriched; 6 diameter; pre-sliced; 2.5 oz. minimum weight; to provide 2.5 serving of G/B; packing code date to be provided; any pack acceptable.

Taco Shells; enriched or whole grain; made from ½ oz. corn tortilla; fried in vegetable oil; packed to prevent breakage; sanitary packaging; 4 doz. per package.

Tortillas, Corn, Fresh/Refrigerated: enriched or whole grain; 6 inch; .45 oz. minimum weight; to provide 1 serving of G/B per two tortillas; packing code date provided; any pack acceptable.

Tortillas, Fat-Free Flour, Frozen; enriched; 6 inch; .9 oz. minimum weight; to provide 1 serving of G/B; any pack acceptable.

Tortilla Chips; bulk; enriched or whole grain; restaurant style; any pack acceptable.

Tortilla Rounds or Triangles: bulk; mini; enriched or whole grain; unsalted or low salt; no animal fat; 10#.

Tortilla Chips, Low Fat: bulk; enriched or whole grain; yellow corn; not to exceed 1 gram of fat per 1 oz. portion; any pack acceptable.

Tostada shell: enriched or whole grain corn meal; no animal fat; .9 oz. minimum weight or documentation of 14.74 grams of flour and/or meal to provide 1 serving of G/B; any pack acceptable.

Waffles, Frozen: Belgian; square; enriched flour; minimum size 1.1 oz each; poly pouch packed.

Waffles, Frozen: enriched; Belgian stick; heat-and-serve; 1.1 oz. minimum weight; to provide 1 serving of G/B; any pack acceptable.

Waffles, Frozen; enriched; round/square; heat and serve; 1.1 oz. minimum weight; to provide 1 serving of G/B; any pack acceptable.

### **Meat/Meat Alternate**

Beans, Black, Canned; 6/#10.

Beans, Kidney, Canned: in brine; 6/#10.

Beans, Pinto, Canned; in brine; no animal fat: 6/#10.

Beans, Pinto, Canned; refried; vegetable oil and seasoning; no animal fat; 6/#10.

Beans, Pinto, Refried Style, Dehydrated: contains whole beans and pieces; vegetable oil; salt and other appropriate ingredients; not to exceed .2 grams of fat and 75 mg. of sodium per 3 oz. serving; packed in poly bags; yield approximately 30-3 oz. servings per bag; any pack acceptable.

Beef, Ground, Bulk, Raw, Frozen: 80% lean, 20% fat ratio; IMPS 136; 2/10 lb.

Beef, Ground, Patties, Cooked, Frozen: IMPS 631; minimum 2 ½ oz; maximum 3 ½ oz; CN labeled to provide 2 oz meat/meat alternate; IQF; natural char marks; cooking temperatures to comply with FSIS requirements.

Beef, Ground, Patties, Raw, Frozen: IMPS 1136A; 20% fat; with soy isolate in accord with Title 7 CFR 210; patties separated by wax paper; oval shape; CN labeled to provide 2 oz. M/MA.

Beef Patty, Frozen: fully cooked; IQF; ground beef with soy concentrate or isolate, no other fillers or extenders; flame broiled/charbroiled; round; 2.45 oz. minimum weight; CN labeled to provide 2 oz. M/MA; not to exceed 14 grams of fat; any pack acceptable.

Beef Roast, Frozen: raw; beef round; top (inside); equivalent to IMPS Item No. 169 and USDA Select or better; fat thickness not to exceed ¼ average; 3-5#; any pack acceptable.

Burrito, Frozen: fully cooked; non-fried; IQF; bean and cheese; not to exceed 15 grams of fat; 6.7 oz. minimum weight; CN labeled to provide 2 oz. M/MA and 2 serving of G/B; any pack acceptable.

Burrito, Frozen: fully-cooked; non-fried; IQF; beef, bean and VPP; not to exceed 14 grams of fat; 5 oz. minimum weight; CN labeled to provide 2 oz. N/MA and 1.75 of G/B; any pack acceptable.

Burrito, Breakfast, Raw, Frozen: CN labeled to provide 1 oz meat/meat alternate and 1 grain bread equivalent; calories from fat not to exceed 15%; ingredient filling combination egg, cheese, sausage.

Cheese, American, Processed reduced fat: yellow; pre-sliced ½ ounce; 2/5#.

Cheese, Cheddar, Reduced Fat: mild; shredded; 4/5#.

Cheese, Mozzarella: part skim; loaf shape; 8/6#.

Cheese, Mozzarella: part skim; shredded; sealed bags; 4/5#.

Cheese, Mozzarella: part skim, string; individually wrapped; 1 oz. minimum weight; any pack acceptable.

Cheese, American, Yellow: sliced to 1 oz. slices; pasteurized; pleasing flavor and odor; satisfactory meltability; produced in manufacturing plant approved by Dairy Grading Branch, Dairy Division, AMS, USDA; 4/5 lb.

Cheese, Cheddar, Reduced Fat: sliced to ½ oz slices; fat content 19.2% to 22.9%; moisture 49%; salt content 1.4% to 2%; pasteurized; pleasing flavor and odor; satisfactory meltability; produced in manufacturing plant approved by Dairy Grading Branch, Dairy Division, AMS, USDA.

Cheese, Cheddar, Reduced Fat: shredded; fat content 19.2% to 22.9%; moisture 49%; salt content 1.4% to 2%; pasteurized; pleasing flavor and odor; satisfactory meltability; produced in manufacturing plant approved by Dairy Grading Branch, Dairy Division, AMS, USDA.

Cheese, Mozzarella, Reduced Fat, Frozen: milk fat 10.8% or less; moisture 52% to 60%; pH maximum 5.3; pleasing flavor; free flowing; natural white or light cream color; melts completely; 6/5 lb. shredded.

Chicken, Pulled and/or Diced, Frozen; fully cooked; IQF; ½ diced; dark and white meat; non-marinated; no filler, extenders or mechanically separated chicken; any pack acceptable.

Chicken Nugget, Frozen: grilled; chopped and formed; chicken breast meat 80% to 85%; maximum skin 5% ; VPP up to 10% when rehydrated; VPP to be concentrate; 5 to 6 nuggets to provide 2 oz. M/MA; fully cooked; maximum fat 10 gm; CN labeled to provide 2 oz. M/MA per serving.

Chicken Patty, Breaded, Frozen: fully cooked; IQF; white/dark meat may contain soy concentrate or isolate and/or dried whole egg; no mechanically separated chicken; not to exceed 15 grams of fat; 3 oz. minimum weight; CN labeled to provide 2 oz. M/MA and 1 serving G/B; any pack acceptable.

Chicken Nugget Shaped Patty, Breaded, Frozen: fully cooked; IQF; breast with rib meat; may contain soy concentrate or isolate and/or dried whole egg; no mechanically separated chicken; not to exceed 15 grams of fat; CN labeled for 5 nuggets to provide 2 oz. M/MA and 1 serving of G/B; any pack acceptable.

Chicken Patty, Grilled, Frozen: not breaded; pre-cooked; made from boneless breast from broilers/fryers; no VPP or extenders; skin not to exceed natural proportions; MSP not allowed; 9 gm maximum fat per 2 oz serving; to be CN labeled to provide 2 oz. M/MA per serving; 2 ml or greater low-density sealed poly bag.

Corn Dog, Frozen: fully cooked; beef frankfurter; IQF; not to exceed 15 grams of fat; 4 oz. minimum weight; CN labeled to provide 2 oz. M/MA and 2 servings of G/B; any pack acceptable.

Corn Dog, Frozen; fully cooked; turkey frankfurter, IQF; not to exceed 15 grams of fat; 4 oz. minimum weight; CN labeled to provide 2 oz. M/MA and 2 servings of G/B; any pack acceptable.

Eggs, Frozen: pasteurized; homogenized; yolks and whites in natural proportions; any pack acceptable.

Egg, Scrambled Mix, Frozen: CN labeled to provide 1 meat/meat alternate equivalent per serving; 6/5 lb.

Egg Whites, Frozen: approximately 30# case.

Ground Beef, Frozen; bulk; raw, regular grind; to meets the standards of IMPS #136 (not to exceed 17% fat); fat/lean ratio stated clearly on the box; 40 lb. maximum weight.

Ground Beef Patty, Frozen, Raw: IMPS 1136A; 20% fat with soy isolate in accord with Title 7 CFR 210; round shaped; patties separated by wax paper; 3 oz. minimum.

Ham, Chilled: fully cooked; boneless; ham and water product; maximum 25% added ingredients by weight; produced from whole muscle; smoked and cured.

Mozzarella Cheese Sticks, Breaded, Frozen: bake or fry; 3 (approx. 21 grams each) sticks to equal 1 M/MA and 1 serving of G/B; not to exceed 14 grams of fat; any pack acceptable.

Peanut Butter: smooth; stabilized; Reduced fat; U.S. Grade A; 5#.

Pizza, cheese, Component Pack, Frozen: to yield 12-16 pizzas; 24 oz. enriched crust (medium thick), raw, perforated; sauce pouch packed; 12# diced; 50/50 mozzarella/provolone blend; no cheese substitute allowed, pouch packed; not to exceed 11 grams of fat per 8-cut portion; 4.75 oz. minimum weight; to provide 2 oz. M/Ma; 3 servings of G/B; and 1/5 cup V/F; 96 servings per case.

Pizza, Frozen: French bread; part skim mozzarella cheese; no cheese substitute; not to exceed 13 grams of fat; 5.5 oz. minimum weight; CN labeled to provide 2 oz. M/MA, 2 servings of G/B, and ¼ cup V/F; any pack acceptable.

Pizza, Frozen: part skim mozzarella cheese, no cheese substitute; not to exceed 14 grams of fat; 4.85 oz. minimum weight; CN labeled to provide 2 oz. M/MA, 2 servings of G/B and 1/8 cup VF; 96/case.

Roast Beef, Cooked, Ready to serve, Frozen: restructured; cooked to internal temperature of 141F to 145F; dry pack; maximum 10 lb.

Sausage Patty, Raw, Frozen: whole hog sausage (or IMPS 802C); 1 ½ oz each; patties separated by wax paper; round shape.

Walnuts: pieces; no hull or foreign matter; approximately 5#.

Yogurt, Nonfat: blended; assorted flavors; sweetened with sugar; 75 day shelf life; must contain live and active yogurt cultures; 8 fl. oz; any pack acceptable; list flavors bid.

## **Vegetables**

Beans, Baked, Canned: 6/10.

Beans, Black, Canned; 6/#10.

Beans, Green, Canned: to be packed to U.S. Grade A standard; Blue Lake variety; #3 size; cut; 6/10.

Beans, Pinto, Canned; in brine; no animal fat: 6/#10.

Beans, Pinto, Canned; refried; vegetable oil and seasoning; no animal fat; 6/#10.

Beans & Pork, Navy, Canned: Grade A; 6/10.

Broccoli, Frozen: florets; to be packed to U.S. Grade A standard; 12/2-½ lb. only.

Broccoli/Cabbage Coleslaw Mix (for salads), Fresh Cut; sulfite-free; packaged in gas permeable package; code dated; 4/5 lb.

Carrot Sticks, Fresh cut: 3-inch lengths; sulfite free; packaged in gas permeable package; code date; 4/5 lb.

Carrots, Frozen; slices; to be packed to U.S. Grade A standard; ¼ inch thick; maximum diameter 1 inch; 12/2 ½ lb. only.

Celery Sticks, Fresh cut: 3 inch lengths; to be packed to U.S. No. 1 Grade standard; code date; 4/5 #.

Corn, Frozen: whole kernel; golden (yellow); to meet the standard of U.S. Grade A; 20#.

Corn, Whole-kernel, Canned: to be packed to U.S. Grade A standard; golden; vacuum packed; 6/10.

Corn, with Onion, Green and Red Pepper: Frozen: 12/2#.

Lettuce, Iceberg: not wrapped; 24-30 count per carton; U.S. No. 1 Grade standard, 40-lb. net minimum case wt.; growing location to be provided w/ price quote.

Mixed Vegetables, Canned: to be packed to standard of commercial item description A-A-20120A; 6/10.

Mixed Vegetable, Frozen; 5-way mix including corn, green beans, carrots, green peas and lima beans; to meet the standard of U.S. Grade A; 20#.

Mixed Vegetables, Frozen: Italian Blend; zucchini squash, sliced carrots, cauliflower, Italian green beans, and baby lima beans; 20 #.

Mixed Vegetables, Frozen: winter blend; broccoli cuts and cauliflower clusters; 6/5#.

Onions, Dry, Fresh: to be packed to U.S. No. 1 Grade Standard; medium size; Bermuda; 25 lb. bag only.

Peas, Green, Frozen: 3-4 sieve; to be packed to U.S. Grade A standard; 2 ½ lb. packages; 12 per case.

Peas and Diced Carrots, Frozen: to be packed to U.S. Grade A standard; 20 lb.

Peppers, Bell, Fresh: to be packed to U.S. No. 1 Grade standard; medium size; green color; 25 lb.

Potatoes, Dehydrated: instant; mashed; granules; with Vitamin C added; complete with whey; 6/5#.

Potatoes, Dehydrated: white; shredded, any pack acceptable.

Potatoes, French Fries, Frozen: shoe string; oven ready; no animal fat or tropical oils; to meet the standard of US Grade A; any pack acceptable.

Potatoes, French Fries, Frozen; crinkle cut; strip; 3/8; short length; oven ready; to meet the standard of U. S. Grade A; ¼ cup not to exceed 1 gram of fat; any pack acceptable.

Potatoes, Hashed Brown: triangle or square; shredded and formed; oven ready; 2.25 oz. to provide ¼ cup V/F serving; product analysis documenting contribution required; any pack acceptable

Salad Mix, Fresh Cut: product to be made with shredded iceberg lettuce, carrots and cabbage; shredded lettuce uniformly cut 1/8 to ¼ inch widths; sulfite free; packaged in gas permeable package; code dated; 4/5 lb.

Spinach (for salads), Fresh: to be packed to U.S. No. 1 Grade standard; tender Broadleaf; trimmed and washed; eastern 12/10 oz. Packages or western 4/2 ½ lb. packages.

Tomato Paste, Canned: light concentration; 24-28% soluble solids; to be packed to the standard of U.S. Grade A; 6/#10.

Tomato Sauce, Canned: to be packed to the standard of U.S. Grade A; 6/#10.

Tomato, Sauce, Marinara, Canned: medium consistency with particulates of tomato, onion and herb; 6/#10.

Tomato Sauce, Pizza, Canned: extra heavy; with basil and ground tomatoes; meatless; 6/#10.

Tomato Sauce, Spaghetti, Canned: medium; meatless; 6/#10.

Tomatoes, Canned, Crushed: peeled; TSS 12% or greater; color, flavor, odor to be equivalent to U.S. Grade A for tomato puree; 6/10.

Tomatoes, Canned: peeled and diced; to be packed to the standard of U.S. Grade B; 6/#10.

Vegetable Blend, Frozen: California; mixture to contain cut broccoli, cauliflower florets, crinkle cut carrots; predominance to be order listed; 12/2 lb.

### **Miscellaneous**

Barbecue Sauce, Portion Pack: cup; minimum 1 oz.; 500-count maximum.

Cake Mix, Chocolate, Dry: made from enriched flour.

Cake Mix, Low Fat; chocolate; complete, add water only; any pack acceptable.

Chocolate Chips: semi-sweet; imitation unacceptable; 10#.

Cocoa: to meet the requirements of CID 20034; Type 11 (cocoa); plastic tub or tin container; 5#.

Cookie Dough, Frozen: portioned; chocolate chip oatmeal; 1.2 oz. minimum weight; not to exceed 4.5 grams of fat; any pack acceptable.

Extract, Vanilla: 4/1 Gal.

Flour: all purpose; enriched; bleached; 25#.

Flour: whole wheat; 50#.

Frosting/Icing for Cake, Dry Mix; complete, add water only; chocolate flavored; any pack acceptable.

Jams and Jellies, Assorted, Portion Pack: minimum 10 grams; any pack acceptable.

Honey, Portion Pack: minimum 9 grams; 200 count.

Hot Sauce, Portion Pack: minimum 7 grams; 500 count.

Ketchup, Portion Pack: poly; to be packed to the standard of US Grade A; minimum 9 grams; 1000 count.

Margarine Based Spread; all vegetable; no lard; 30#.

Mayonnaise, Fat Free, Portion pack: minimum 12 grams, 500 count.

Mayonnaise: Fat Free; 4/1 Gal.

Milk, Low Fat (1%), Flavored; chocolate; Grade A; pasteurized; homogenized; ½ pint.

Milk, Low Fat (1%), Unflavored; Grade A; pasteurized; homogenized; ½ pint.

Mustard, Portion Pack; prepared; minimum 5.5 grams; 500 count.

Mustard; prepared; plastic only; 4/1 Gal.

Oil, Olive: extra virgin; any pack acceptable.

Oil, Salad: canola; 6/1 Gal.

Pickles: Dill; sliced 1/8; crinkle cut; to be packed to the standard of U.S. Grade A; minimum 3000 count per 5 gallon; 5 gallon pail.

Pickles: Dill; sliced 1/8; crinkle cut; to be packed to the standard of U.S. Grade A; 900-960 per gallon count; plastic only; 4/1 gallon.

Pudding, Canned: ready-to-serve; chocolate; low fat; 6/#10.

Pudding and Pie Filling Mix, Dry: instant; chocolate; complete; add water only; any pack acceptable.

Salad Dressing, Buttermilk Ranch, Fat Free, Portion Pack: minimum 12 grams; 200 count.

Salad Dressing: reduced fat; Ranch; 4/1 Gal.

Salad Dressing, Reduced Calorie: Portion Pack; minimum 12 grams; 500 count.

Salad Dressing Mix, Dry: no MSG; Ranch; yield 1 Gal; any pack acceptable.

Salt, Table: iodized; 25#.

Sauce, BBQ: individual portion pack; 100/1 oz.

Sauce Mix, Dry; nacho; low fat; cheese solids as the primary ingredient by weight; not to exceed .68 grams of fat per 1 fl. oz; with jalapenos; mix with water; to yield approx. 1 Gal; any pack acceptable.

Sauce, Picante: medium; chunky consistency; 4/1 Gal.



Sauce, Pico de Gallo: tomatoes as the first ingredient; no MSG; fat free; mild; to be used as a dip, cooking sauce, on sandwiches or as a table sauce with Mexican foods; 4/1 Gal. plastic containers.

Sauce, Sweet and Sour: individual portion pack; 100/1 oz.

Seasoning, Pizza or Spaghetti Sauce; dry; no extenders or MSG; to season approximately 1 gallons sauce; any pack acceptable.

Seasoning, Onion and Herb: salt free; no MSG; approximately 1#.

Seasoning, Taco: 6/9 oz.

Shortening, Solid, for baking; all vegetable, no tropical oils; any pack acceptable.

Soup Base, Beef: no MSG; low sodium; 12/1 lb.

Soup Base: beef; paste; no MSG; 35% cooked beef minimum; 16% sodium and 12% fat maximum; 12/1#.

Soup Base, Chicken: no MSG; low sodium; 12/1 lb.

Sour Cream, Fat-Free; 4/5#.

Spice, Garlic: powder; 19 oz.

Spice, Oregano, Ground: 13 oz.

Sugar, White: granulated; 50#.

Table Syrup, Portion Pack: cup; minimum 1.5 oz; no triangular shaped packets; 100 count.

Sources: Choice Plus, A Reference Guide for Foods and Ingredients, USDA, 1996, and <http://www.tea.state.tx.us/CNP/demo/bidbuilder.cgi>

**DESIGNATION OF PROGRAM EXPENSES  
FOR FOOD SERVICE OPERATIONS\***

| <b><u>FOOD</u></b>                         | <b><u>COMPANY</u></b> | <b><u>SPONSOR</u></b> |
|--|-----------------------|-----------------------|
| Food Purchasing.....                       | _____                 | _____                 |
| USDA Commodity Processing .....            | _____                 | _____                 |
| USDA Commodity Delivery .....              | _____                 | _____                 |
| USDA Commodity Storage/Warehousing .....   | _____                 | _____                 |
| Processing of Invoices .....               | _____                 | _____                 |
| Payment of Invoices.....                   | _____                 | _____                 |
| <br>                                       |                       |                       |
| <b><u>LABOR</u></b>                        |                       |                       |
| Payroll, Managers and/or Supervisors ..... | _____                 | _____                 |
| Payroll, Full-time Employees .....         | _____                 | _____                 |
| Payroll, Part-time Employees.....          | _____                 | _____                 |
| Payroll Taxes .....                        | _____                 | _____                 |
| Life Insurance .....                       | _____                 | _____                 |
| Medical Insurance.....                     | _____                 | _____                 |
| Dental Insurance.....                      | _____                 | _____                 |
| Preparation of Payroll .....               | _____                 | _____                 |
| Processing of Payroll .....                | _____                 | _____                 |
| Retirement Plan .....                      | _____                 | _____                 |
| Social Security .....                      | _____                 | _____                 |
| Tuition Reimbursement.....                 | _____                 | _____                 |
| Travel, Required .....                     | _____                 | _____                 |
| Training .....                             | _____                 | _____                 |
| Unemployment Compensation.....             | _____                 | _____                 |
| Workers Compensation .....                 | _____                 | _____                 |
| <br>                                       |                       |                       |
| <b><u>ADDITIONAL ITEMS</u></b>             |                       |                       |
| Major Equipment                            |                       |                       |
| Original Purchase .....                    | _____                 | _____                 |
| Maintenance .....                          | _____                 | _____                 |
| Major Repairs .....                        | _____                 | _____                 |
| Replacement.....                           | _____                 | _____                 |
| Expendable Equipment                       |                       |                       |
| Original Purchase .....                    | _____                 | _____                 |
| Replacement.....                           | _____                 | _____                 |
| Pest Control .....                         | _____                 | _____                 |
| Printing.....                              | _____                 | _____                 |
| Promotional Material .....                 | _____                 | _____                 |
| Telephone - Local .....                    | _____                 | _____                 |
| Telephone - Long Distance.....             | _____                 | _____                 |
| Tickets/Tokens/Cards .....                 | _____                 | _____                 |

**ADDITIONAL ITEMS CONTINUED****COMPANY****SPONSOR**

Removal of trash and garbage from kitchen .....

Removal of trash and garbage from premises .....

Products and public liability insurance .....

Vehicles .....

Maintenance .....

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**SUPPLIES**

Detergent and cleaning supplies.....

Office Supplies.....

Postage.....

Taxes/licenses .....

Pest control.....

Laundry.....

Uniforms .....

Utilities .....

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**CLEANING**

Equipment and hoods.....

Vent from hoods to outside.....

Floors.....

Walls .....

Ceiling and fans .....

Light fixtures.....

Tables and chairs .....

Rest Rooms .....

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**\*This list may not contain all possible expenses.**

**Instructions for Certification**

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide Immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

U.S. DEPARTMENT OF AGRICULTURE

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**Certification Regarding Debarment, Suspension, Ineligibility  
and Voluntary Exclusion - Lower Tier Covered Transactions**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
PR/Award Number Project Name

\_\_\_\_\_  
Name(s) and Title(s) Authorized Representative(s)

\_\_\_\_\_  
Signature(s)

\_\_\_\_\_  
Date

**SAMPLE****CERTIFICATION REGARDING LOBBYING**

---

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds.

---

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

---

Name/Address of Organization

---

Name/Title of submitting Official

---

Signature

---

Date

**DISCLOSURE OF LOBBYING ACTIVITIES  
INSTRUCTIONS FOR COMPLETION OF SF-LLL**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other, aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

**DISCLOSURE OF LOBBYING ACTIVITIES**  
**Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352**  
**(See reverse for public burden disclosure.)**

|   |  |   |
|---|--|---|
| <b>1. Type of Federal Action:</b><br><input type="checkbox"/> a. contract<br><input type="checkbox"/> b. grant<br><input type="checkbox"/> c. cooperative agreement<br><input type="checkbox"/> e. loan guarantee<br><input type="checkbox"/> f. loan insurance   | <b>2. Status of Federal Action:</b><br><input type="checkbox"/> a. bid/offer/application<br><input type="checkbox"/> b. initial award<br><input type="checkbox"/> c. post-award  | <b>3. Report Type:</b><br><input type="checkbox"/> a. initial filing<br><input type="checkbox"/> b. material change<br>For Material Change Only:<br>year _____ quarter _____<br>date of last report _____ |
| <b>4. Name and Address of Reporting Entity</b><br><br><input type="checkbox"/> Prime <span style="margin-left: 100px;"><input type="checkbox"/> Subawardee</span><br><span style="margin-left: 180px;">Tier _____, if known</span><br><br>Congressional District, <i>if known</i> : _____   |  | <b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b><br><br><br>Congressional District, <i>if known</i> : _____   |
| <b>6. Federal Department/Agency:</b><br><br>_____   | <b>7. Federal Program Name/Description</b><br><br>CFDA Number, <i>if applicable</i> : _____  |   |
| <b>8. Federal Action Number, <i>if known</i>:</b><br><br>_____  | <b>9. Award Amount, <i>if known</i>:</b><br>\$ _____   |   |
| <b>10. a. Name and Address of Lobbying Entity</b><br>(if individual, last name, first name, MI):<br><br>_____<br><br>(attach continuation sheet(s) SF-LLL-A, if necessary)  | <b>b. Individuals Performing Services (including address</b><br>(last name, first name, MI):<br><br>_____<br><br>(attach continuation sheet(s) SF-LLL-A, if necessary)   |   |
| <b>11. Amount of Payment (<i>check all that apply</i>):</b><br><br>\$ _____ <input type="checkbox"/> actual<br><span style="margin-left: 200px;"><input type="checkbox"/> planned</span>  | <b>13. Type of Payment (<i>check all that apply</i>):</b><br><input type="checkbox"/> a. retainer<br><input type="checkbox"/> b. one-time fee<br><input type="checkbox"/> c. commission<br><input type="checkbox"/> d. contingent fee<br><input type="checkbox"/> e. deferred<br><input type="checkbox"/> f. other; specify: _____ |   |
| <b>12. Form of Payment (<i>check all that apply</i>):</b><br><input type="checkbox"/> a. cash<br><input type="checkbox"/> b. in-kind; specify: nature _____<br><span style="margin-left: 150px;">value _____</span>   |  |   |
| <b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), of Member(s) contracted, for payment indicated on item 11:</b><br><br>_____<br><br>(attach Continuation Sheet(s) SF-LLL-A, if necessary)   |  |   |
| <b>15. Continuation Sheet(s) SF-LLL-A attached:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No  |  |   |
| <b>16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b> | Signature: _____<br><br>Print Name: _____<br><br>Title: _____<br><br>Telephone No.: _____ Date: _____  |   |
| <b>Federal Use Only:</b>  |  |   |



**Prototype  
Certificate of Independent Price Determination**

Both the school food authority and the Food Service Management Company (offeror) shall execute this Certificate of Independent Price Determination.

\_\_\_\_\_  
Name of Food Service Management Company

\_\_\_\_\_  
Name of School Food Authority

(A) By submission of this offer, the offeror certifies and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

(1) The prices in this offer have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening in the case of an advertised procurement, or prior to award in the case of a negotiated procurement, directly or indirectly to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any person or firm to submit or not to submit, an offer for the purpose of restricting competition.

(B) Each person signing this offer on behalf of the Food Service Management Company certifies that:

(1) He or she is the person in the offerors organization responsible within the organization for the decision as to the prices being offered herein and has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above; or

(2) He or she is not the person in the offeror's organization responsible within the organization for the decision as to the prices being offered herein, but that he or she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to (A)(1) through (A)(3) above, and as their agent does hereby so certify; and he or she has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above.

**To the best of my knowledge, this Food Service Management Company, its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:**

\_\_\_\_\_  
Signature of Food Service Management  
Company's Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**In accepting this offer, the SFA certifies that no representative of the SFA has taken any action which may have jeopardized the independence of the offer referred to above.**

\_\_\_\_\_  
Signature of School Food Authority's  
Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Note: Accepting a bidder's offer does not constitute award of the contract.**

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All programs of the United States Department of Agriculture (USDA) are available to everyone without regard to race, color, national origin, age, sex, or handicap. Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.